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International Court of Justice

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18 June 46
10:00 - 11:30

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OFFICIAL TRANSCRIPT OF TESTIMONY FOR THE DEFENSE OF ORGANIZATIONS, TAKEN BEFORE A COMMISSION APPOINTED BY THE INTERNATIONAL MILITARY TRIBUNAL PURSUANT TO PARAGRAPH 4, OF THE ORDER OF THE TRIBUNAL DATED 13 MARCH 1946.

18 June 1946

(The Commission Convened at 10:00 hours.)

COMMISSIONER:

Capt. Joseph Tubridy

O.K.W.

GENERAL OF THE CAVALRY SIEGFRIED WESTPHAL took the stand and testified as follows:

CAPT. TUBRIDY: Will the witness stand, please, and raise his right hand and repeat after me:

I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath.)

Will you please give your full name?

A Siegfried Westphal.

CAPT TUBRIDY: The witness may be seated.

DR. KEMPNER: Mr. Commissioner, may I make a motion before the Defense lawyer starts the questioning of this witness? We would like to know, before this witness is questioned, whether or not he is a member of one of the indicted organizations. In case he is not, we will file a motion. If the Court wants to know what motion we intend to file, I am ready to mention it right now.

H0959 - 0003

CAPT. TUBRIDY: Is the witness a member of ~~the~~ one of the indicted organizations?

WITNESS: No.

CAPT. TUBRIDY: In that event, Dr. Kempner, do you want to ~~file~~ make a motion?

DR. KEMPNER: Yes.

CAPT. TUBRIDY: What is your motion?

CDR. KEMPNER: Since this witness declares he is not a member of one of the organizations, I want to refer to the ~~charge~~ charter of the International Military Tribunal which expresses, in ~~this~~ Article 9, and I will quote Article 9 now:

"The trial of any individual member of any group or organization. . ."

I mean Article 9, Paragraph 2: "After receipt of the indictment, the ~~Tribunal~~ that the Prosecution intends to ask the Tribunal shall give such notice as it thinks fit ~~to the~~ Tribunal to make such ~~a~~ declaration, and any member of the organization will be entitled to apply to the Tribunal for leave to be heard by the Tribunal upon the question of the criminal character of the organization."

In other words, we think that the charter allows only to have members of the organization as witnesses here. This is the first law I quote in this respect. The second law, under which we are working, ~~are~~ is the rules and regulations of the International Military Tribunal and I refer to the notice of March 13, 1946, signed by Brigadier General Mitchell, and I quote:

"Notice to be posted on the bulletin board in Defendant's Information Room.

"The following order with respect to further proceedings on the charge against organizations and applications of members thereof to be heard has been adopted by the Tribunal."

H0959-0004

Here again we have the wording, "applications of members thereof" of members of organizations. Therefore, we conclude that so far as organizations are concerned, we can have in the court and before the commissioner only members of the organizations to be heard, and without making any suggestions, we just move that the court clarify this question.

CAPT TUBRIDY: I think these provisions are merely permissive. They are not exclusive, Dr. Kempner, and anyone may be called as a witness whether or not they have been members of the organization. We will proceed with the taking of testimony of this witness, but of course you have your right to apply to the Tribunal if you care to.

DR. KEMPNER: I emphasize that we would like to have only a clarification on this point as to what the Commissioner thinks, because this was brought up before other Commissioners and we were not sure.

CAPT. TUBRIDY: I think we may proceed.

DR. LATERNSER: I should like to take a position concerning statements made by the Prosecutor.

CAPT. TUBRIDY: The matter is terminated, Dr. Laternser. We may proceed with the questioning of the witness.

DR. LATERNSER: I had intended to make the very same motion because I am also of the same opinion that according to paragraph 9, the commission has the right only to hear members of the organizations who have been indicted. That is stated clearly by the regulations within the charter, and if we are going to proceed now as intended, we would violate the immediate relevancy of the testimony, especially as the Prosecution has been in the position to submit its testimony to the Tribunal by means of direct interrogations. If the Defense here are not in a similar position to do so, a question of unfairness or impartiality would arise.

H0959-0005

CAPT. TUBRIDY: Dr. Laternser, I have already said that in my opinion, the clauses that have been presented are permissive but not exclusive. It states what witnesses may appear before the commission, but it does not say only those witnesses may appear before the commission, so I think we may proceed with the examination of the witness.

DR. LATERNSER: I consider this of such momentous importance that a decision would have to be brought about by the Tribunal. I made an application to this effect sometime ago, but have not received any answer to it.

CAPT. TUBRIDY: Do you mean, Dr. Laternser, that you prefer not to proceed with the examination of this witness right now?

DR. LATERNSER: We would first have to received the decision of the Tribunal so that we would be of a clear opinion concerning these principles.

CAPT. TUBRIDY: Dr. Laternser, in my opinion, there is little doubt as to how the Tribunal would rule.

DR. LATERNSER: I shall then begin with my interrogation but without approving the decision of the Commissioner that this witness is being interrogated according to the rules.

CAPT. TUBRIDY: Very well, we will proceed with that understanding.

DR. LATERNSER: May I sit during the interrogation?

CAPT.TUBRIDY: Yes, surely.

DR. LATERNSER: I intend to interrogate Siegfried Westphal concerning the following:

The training position and missions of the military leaders; whether or not the military leaders composed any political group or organization; whether or not the military leaders participated in any plan with the aim of committing criminal acts according to Article 6 of the Charter, and whether or not the military leaders applied any criminal methods.

H0959 - 0006

DIRECT EXAMINATION

BY DR. LATERNSER:

Q Were you, at one time, being held as an American prisoner-of-war?

A Yes, until I was transferred to this prison on the 2nd of October.

Q Are you no longer a prisoner of war?

A No, I was interned.

Q Will you please wait after I have asked my question until the translation has been made?

A Yes.

Q What was the last rank that you held?

A General of the Cavalry.

Q When did you enter the Army?

A Date autumn of 1918.

Q Were you a member of the Army? Have you been a member of the Army from that time on without any interruption?

A Yes, without interruption, with the exception of a small intermission in 1919.

Q Will you please give us the positions you held from 1933?

A Until 1935 I was commandeer to the Academy of War. From the summer of 1935 until the autumn of 1938 I was a member of the Operational Staff of the General Staff of the Army. Until the outbreak of the war, I was a member of the Cavalry Regiment 13. During the first year of the war, I was One-A of a Divisional Enemy Group at the Western front, and after that, in May 1941, I was ordered to be a member of the German-French Armistice Commission. From June 1941 until the beginning of 1943, I was stationed in Africa. At first, I was the One-A, after that, I was Chief of Field Marshall Rommel's Staff and after that , head of a division.

H0959 - 0007

Q One intermediary question, what were the missions of One-A?

A The One-A is the Chief of the Operational Staff within the Staff, the assistant of the Chief of Staff, but without responsibilities.

Q Will you please continue?

A From February, 1943, until May, 1944, Chief in Italy, and from September 1944 to the end of the war, Chief of the Military Commissioner . After the capitulation, I was used by the Americanx authorities to aid in demobilization, and xx at the beginning of June, I became a prisoner of war.

Q You said that you xxxxxxx attended the Academy of War?

A Fro m 1932 to 1935, yes.

Q What was taught there?

A Tactics, up to and including divisional tactics. The leadership and how to manage the larger groups was not taught. For example, not of Army or Army groups; not of the Navy or of the Airforce. Besides, they taught quartermaster service, rail or transportation service, and the history of war.

Q Was the teaching concerned with offensive xxx operations considered especially important?

A No. A very large part of our xxxxxxxx teachings was concerned with defense operations. In my opinion, about 60%.

Q Was propaganda for ward of aggression circulated at the Academy ofWar?

A No.

Q What was their attitude concerning International and Military Law?

A The important regulations of the Hague and Geneva Conventions were contained in the service regulations. They were contained in the printed service regulations. Every man and every xx officer within the troops was informed of these regulations. Every member of our Army knew, for example, that it was dishonorable to maltreat

H0959 - 0008

prisoners of war or to plunder. I might even say that these principles were imbedded into every officer who was at the Academy of War. International and Military Law at the Academy itself was taught within the teaching allotted to the Quartermaster Service.

Q In reference to my last question concerning training at the Academy of War, how was politics treated?

A There was no teaching at all concerning politics. General lectures were held. I remember, for example, one lecture on Naval warfare, or to express it more appropriately, naval strategy, and I remember individual lectures on historical events of the past. No members of the Foreign Office or any of the political leaders spoke to us. Mr. Ley once held a lecture in our school on the social advantages on the general labor front.

Q That is sufficient. In which departments of the general staff of the Army were you commandeered?

A Into the first department of the general staff of the Army which, at that time, was changed into the organizational staff.

Q And you now refer to the general staff with the High Command of the Army?

A Yes.

Q And when did you enter?

A On the first of August, 1935.

Q What instructions concerning concentration of troops did you find there?

A When I was commandeered to this department in the summer of 1935 , there were as yet, no concentrations at all. The first concentrations were just being worked on or drawn up and were put into effect in October of that year. In October, 1935, the first concentration instructions appeared after a lapse of 21 years. This was termed Concentration Rot.

H0959-0009

The Roth concentration was/purely of a defensive nature. It was intended to place 3 divisions at the French borders, 2 armies at the Polish border, and at the Czechoslovakian border, only frontier protection and Landwehr, and at all other borders, only customs protection groups.

A part of the army, first one, and later two army groups, remained within the Reich proper in their garrisons in order to be removed to one or the other fronts according to the positions. This concentration was still in force when I left the Operational Division in 1938. Of course, it was revised each year and the number had increased every year, but the number was never large enough for a successful defense in case of a war. Therefore, the General Staff was very much afraid that in case of a conflict with Germany on one hand and France or Czechoslovakia on the other hand, Southern Germany might be lost. We were therefore ordered, in the summer of 1937, to draw up a further concentration. This was Concentration Gruen.

Concentration Gruen was a defensive one so far as it concerned France and Poland, but an offensive concentration in regard to Czechoslovakia. In case of a two front war, the Czechoslovakian Army was to be defeated first in order to relieve the rear and to have our forces available for the Western front. But the basis of this concentration was not a very firm one concerning the forces that were available at all which, so far as I remember, numbered between 60 or 70 divisions at that time. This concentration plan was only termed a study plan in addition to the Army group commandos and the General Command No. 4. After the Munich Agreement, it was abandoned entirely.

There was, besides this, a military bulletin containing instructions about Prussia. This was naturally, in its entire structure, a defensive one.

H0959 - 0010

Q [redacted] What types of maps were the troops equipped with?

A If I remember, at that time there were 4 series of maps. Series East, Southeast, West and South. In the West the territory covered extended about 100 kilometers, that is about 50 miles, or 60 miles, into Belgium and France. That was in 1938. So far as the South is concerned, I do not remember that in detail,but it did not extend very far. The mapping in the Southeast covered almost all of Czechoslovakia with parts or perhaps the whole territory of Austria and Hungary, and the map series East included, so far as I remember, not quite all of Poland. There were no [redacted] maps of the other countries of Europe.

Q What was the opinion expressed by the General Staff of the Army concerning the speed with which the Army was being built up?

A Do you mean the increase of the Army, the growth of the Army?

Q Yes.

A The figure of the 36th division which was announced in March, 1935, surprised us generally. Of course, we had all concerned ourselves in thought with an Army increase because we considered this essential for the security of the country, but as we almost had an Army of 100,000 men at our disposal with the considerable number of 4,000 officers and non-commissioned officers, we had not considered an increase of the Army by trebling it, that is, an increase from 7 divisions to 21 divisions.

The general staff of the army preferred quality to quantity. The staff preferred a small but well trained army to a large army which up to the outbreak of the war did not even have a sufficient number of artillery divisions in all battalions. Therefore, difficulties between Hitler and the Army High Command already cropped up in the year 1935. Hitler reproached us for being slow and behind the times and so on because we were not applying ourselves to building up the Army at a very high speed. That is all.

H0959 - 0011

Q For how long before the occupation of the Rhineland had the officers of the Operational Staff of the Army known of this intention?

A We numbered about 7 or 8 officers in the Operational Department at that time. 3 or 4 of these, to which I also belonged, did not hear of the occupation of the Rhineland until the day of the occupation. The remaining 3 or 4 were informed about 3 or 5 days previously in order to be able to draft the orders as I was later told.

Q I should like to ask you one more question concerning the previous question. X Did Hitler order the increase of the Army from 7 to 36 divisions?

A Yes.

Q And what was the increase that had been suggested by the General Staff?

A We wanted to augment the 7 infantry divisions to 21 infantry divisions, and the 3 cavalry divisions that existed were to remain alongside these 21 divisions. I should like to state here, however, that we did not reject the idea of an Army of 36 divisions. That would be dishonest of me if I said that, but we did not consider it possible to comprise such a large Army on such short notice from a nucleus of 100,000 men. We wanted to work on a solid basis extending over a period of time.

Q Does that mean that the General Staff was against the speed with which this was to be carried out?

A From the very beginning.

Q How long before hand did the officers of the Operational Staff know of the intention to occupy Austria? In treating this question, I wish you would also state here whether such an invasion had been at all prepared.

A I should like to answer this question as follows. In the first place, no plan had been made concerning an invasion of Austria by troops. Secondly,

H0959 - 0012

at this time, about 1/2 of the younger officers of the Staff were away on a tactical mission in Thuringia. Without any reason, we were recalled to Berlin and arrived there on the eve of the invasion. There we learned from our Department what had in the meantime been ordered by the high authorities.

I only remember that my senior quartermaster and my divisional chief learned of the invasion 5 hours before the decree concerning this was issued. They worked with such haste at that time because no orders had been issued that the senior quartermaster issued these orders. Moreover, so much friction arose during this invasion.

Q Who was the Chief of Staff at that time?

A General Beck.

Q What was General Beck's opinion and also the officers of the Operational Staffs concerning a possible conflict with Czechoslovakia?

A Already in 1937 General Beck termed this troop concentration plan Gruen--and in my presence--as being terrible. Only as it applied to armament and forces, of course. General Beck, as the Chief officer of the General Staff and the Operational Staff was opposed to armed conflict with Czechoslovakia that had been brought about by us, for in General Beck's opinion, such a conflict brought on by us would inevitably have led to a two war front if not into a European war. General Beck expressed this opinion repeatedly in the spring and summer of 1938. I can illustrate this by examples.

In early 1938, all older General Staff officers had to work on a mission and for the final meeting concerning this mission, all officers were asked by General Beck to convene in the Ministry of War. At this meeting General Beck expressed his opposition to a war with Czechoslovakia in no uncertain terms. Furthermore,

H0959 - 0013

General Beck expressed this opinion in a memorandum which he submitted to the Chief of the Army High Command. This memorandum was also transmitted to Hitler which caused and aroused much anger.

Besides this, we officers in the Operational Staff had to make comparisons repeatedly on forces, on American forces, and graphical illustrations in order to present the impossibility of a war against Czechoslovakia. I also drew some of these up and I was later told that they were also presented to the Reich Chancellor.

Q Did you yourself read Beck's memorandum?

A Yes, I read the memorandum but I don't remember it in detail.

Q But you probably remember the conclusions that he arrived at.

A Yes, certainly. He arrived at the conclusion that it was impossible for Germany to wage war with Czechoslovakia because such a war would doubtlessly lead to a European war considering the agreements and treaties which existed in Europe.

Q And from a purely military viewpoint, what conclusions did Beck draw?

A That our forces would be insufficient to put up resistance in the West, perhaps also against Poland and at the same time to also attack Czechoslovakia.

Q What was the opinion expressed by the Chief of the Army High Command concerning this memorandum?

A As far as I remember, he approved this memorandum wholly and submitted it to Hitler.

Q Who was Chief of the O.K.W. at that time?

A Field Marshal von Branchitsch.

Q What did you hear at that time concerning Hitler's attitude toward the doubtful opinions of the General Staff for such a step?

H0959 - 0014

A Very much could be said concerning Hitler's opposition toward us -- free Masons as we were called within Party circles. The most characteristic of this is probably Hitler's so-called reckoning, if I may say so, that he had with General Beck in 1938 on the occasion of the Party Rally in Nurnberg.

Q Did Hitler as early as 1938 interfere with military preparations?

A These interferences began at that time. I remember two such cases. First of all, he ordered that 2 divisions had to be exchanged at the drilling grounds or the training grounds, and he gave these divisions numbers. Secondly, the labor service that was being built up on the Siegfried Line was armed, at that time, without our knowing about it.

Q Whatinfluence did the Chief of the General Staff of the Army have?

A His influence was very much smaller than generally believed by public opinion. He was the military advisor of the Chief of the Army High Command. He had no political influence whatsoever, but he also had no military political influence as the events of 1938 show. His position was entirely different from that of the Chief of the General Staff in the Kaiser's Army. The Chief of the General Staff of the Kaiser's Army was directly subordinated to the Kaiser as the Commander in Chief. But the Chief of the General Staff in the beginning of 1935 was separated from the Supreme Commander in Chief of the Armed Forces by two intermediary forces. That is, the Chief of the High Command of the Army and the Reichsminister of War.

Q Do you know whether the Chief of the General Staff of the Army often reported to Hitler?

A I don't remember if he ever made any reports to Hitler. I only know that he was ordered to appear before Hitler in the Reichs Chancellory a short time before the invasion of Austria as I later heard, and he may have been there once or twice more.

H0959 - 0015

Q That would mean that the Chief of the O.K.H. did not have the right of immediate reporting to the Supreme Commander as the Chief of in the Kaiser's Army did.

A No, because he was only subordinated to the Chief of the O.K.H. and was admitted relatively rarely to the presence of the Reichsminister of War. I was present when General Beck was rather indignant about the fact, in the autumn of 1937, that he had not seen Minister Von Blomberg for over 5 months.

Q Did your superiors in the O.K.H. meet any Party leaders?

A I never saw any Party leaders inside our office building in 9 months. And I know they did not have any social intercourse but they probably met on official occasions.

Q Did you return to your unit after your work with the General Staff was over?

A Yes.

Q And to which unit?

A Cavalry Regiment 13 at Lueneburg.

Q While you were a member of this Cavalry Regiment, did you entertain any members of the General Staff?

A No, I had no relations whatever with the exception that once in a while one wrote a postcard to one's old comrades. I was once again a troop officer.

Q And you were no longer informed by the General Staff?

A No, nothing at all was said.

Q Was the training that your regiment received related to any war that might appear to be at hand?

A Not at all. The training was the international training that was given every year.

H0959-0016

Q And to which year do you refer now?

A To 1938 and 1939.

Q What was the attitude of the officer corps concerning the Polish crises?

A Do you mean officers as a whole?

Q So far as you were in touch with them.

A Yes, I only had contact with the officers of the different troop groups, and I can only give an opinion concerning their attitude. The attitude and opinion of these officers was different from my personal opinion. The general public was of the opinion that Hitler would attain his ends this time too without having recourse to war, for up to this time he had always been successful with everything.

Q When I asked you a few minutes ago whether the officers of the General Staff had any contact with Party leaders, you answered that you never saw any in your building. What was your attitude and the attitude of your superiors to the Party?

A May I speak of my own attitude first?

Q Yes.

A In 1933 I was still one of the younger officers and we young officers placed very much hope in the Party at that time. It seemed very symbolic that at that time the bell chimes of the Potsdam garrison church was made the station signal of the German radio stations, but I very soon found out that the intentions were not quite so serious . There is a proverb which says, "Be always honorable and honest, and do not deviate from the right path even by a few minutes breadth." Finding this out gave me quite a shock at that time. I was also shocked by the manner of living of many a Party leader in the way it deviated from our education and training, and the rigorousness of all the methods which were applied.

H0959 - 0017

Q Witness, do you know if your superiors and the chiefs of the General Staff with whom you met were of the same opinion?

A My superiors certainly had the same opinion. We discussed it very often but we were always in the wrong, for the successes that were attained in the years of 1935 to 1938 could not be disputed and the majority probably backed this system at that time.

Q Were you ever active in a political sense?

A Never. And I never voted.

Q Do you know anything about the fact as to whether the high military leaders organized themselves in the sense, for example, that the political organizations did?

A In my own firm conviction and according to the knowledge that I have of the German officer corps, no.

Q Did the military leaders hold their positions voluntarily by reason of which they are now comprised as this one group?

A No, they were commandeered and ordered as is always the case in military life.

Q According to which viewpoints were you employed in the General Staff or in the Higher Command Offices?

A According to the military capabilities and competency.

Q Do you know if political reasons played a role in this?

A Before the war, surely not, but during the war a slight change came about, especially towards the end of the war for at that time men were placed at the head of Army groups who, in our opinion, would not have been placed there on the basis of their military abilities.

Q The question I am now going to ask you refers only to the internal position of such an office.

A Yes.

H0959 - 0018

officers

Q Were high military ~~officials~~ who were intended for employment in high commands offices refused or deprived of such an appointmen t?

A I might imagine that any officer who had been commandeered to the Commander in Chief of the Army might say to his superior that he did not feel equal to filling such a position when seen from a military viewpoint. But, under internal conditions, such an order had to be carried out, and of course, during the war, when everyone was at the front, no man was able to get out of such an appointment.

Q Herr General, did you find that high German officers met or organized themselves with the purpose of causing or waging wars and then to commit crimes against humanity?

A If there had been any such endeavors prevalent amongst the high German leaders, I would have heard about them in my position with the General Staff. I believe that the testimony I have just given concerning the attitude of the Chief of Staff in regard to a war with ~~Czech~~ Czechoslovakia would speak against any such plan. In conclusion, I should like to answer this question in the negative, according to my knowledge.

Q What position did you hold in November, 1937?

A In November 1937 I was General Officer in the Operational Division.

Q As you probably found out in the meantime, on 5 November 1937, a conference took place between Hitler and the Commanders in Chief of the armed forces. In this conference, Hitler ~~xxx~~ designated his future aims. Were any orders, special orders, issued to you after this date in the Operational Department that would deviate from any usual orders that you had previously received in the Operational Department?

A I heard of this conference here in Nurnberg. At that time we heard nothing

H0959 - 0019

of it. No special instructions were issued to us. We worked on instructions of Concentration Rot and Concentration Gruen, and also the military instructions ~~xx~~ concerning concentrations.

Q Do you mean that this work had been ordered to be carried out before November, 1937?

A The work for both concentration plans was ~~xxxxxx~~ concluded in November 1937, and the plans were put into effect in November without any changes.

Q Did the military leaders know of the political aims and methods applied by the political leadership?

A It is well known that Hitler did not think the military leaders capable of any political judgment and I am convinced that he did not inform them of the political aims and methods that he intended to apply.

Q Was the ~~xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx~~ soldier's obligation to obedience a compulsory one or not?

A The soldier was obliged to be obedient on the strength of the military law.

Q And what was the reason given for the soldier's obedience that was to be effected as far as Hitler was concerned?

A It was expressed by popular opinion in popular elections.

CAPT. TUBRIDY: Dr. Laternser, I think we will take a recess now for 10 minutes.

(A recess was taken.)

H0959 - 0020

Q I have two further questions concerning this matter we have been discussing up to now. Was there ever within the German Army any kind of group, organization or club for political purposes?

A I can think of only one case and that was between 1807 and 1813 in the battle against Napoleon the First.

Q Of course I asked the question concerning the period where you had personal experience or personal knowledge about the German Army.

A As far as I know, no.

Q Did the military leaders have any insight into the military goals of the political or the State Leaders?

A That they did not have this insight is probably best proved by the Summer of 1938. We were forced to prepare for a war while evidently the highest political leaders attempted to solve this question by political means. We never knew of the second or the last intention.

Q What was the Secret Order No. 1?

A The order of Hitler?

Q Yes.

A This order by Hitler was that no office or no officer should receive information concerning any future measures until ~~that~~ such time as it was necessary to inform this group or this officer so that the work could be carried out. It also stated that every office and every officer was allowed to receive only that much information which was absolutely necessary in order for him to carry out his work. Without a doubt this order had some advantages from a military standpoint but I found out the thoughts behind it only recently.

Q Was this order adhered to very well?

A For those who did not adhere to it were military courtsmartial. General Staff officers were sentenced to death because in their orders they gave more information concerning the future developments than was absolutely necessary.

H0959 - 0021

Q Can you give any specific examples concerning this?

A There was one in the 40th Armored Corps in Russia. We found out about it through a General Order of the High Command. At that time two General Staff officers were sentenced to death; later on the sentence was rescinded and they were allowed to serve in the Army as regular men. I spoke with one of them personally. Also the Commanding General of that unit, General Stumme, was put before a General Court Martial under the leadership of Goering. All that happened in 1942.

Q The Prosecution combines the officers that it is trying here in a group and gives them the name of General Staff OKW. First, the question, what do you understand of the German General Staff?

A Under General Staff it is understood come the operational and tactical aides of the High Command.

Q In other words, what does the General Staff of the Army consist of?

A It consists of the General Staff officers.

CAPTAIN TUBRIDY: Dr. Laternser, a lot of this evidence has already been ~~admitted~~ submitted when the Prosecution put on its case. I think that if there isn't any dispute as to the evidence which did go in that the witness might be confined in his testimony to what he believes is the difference ~~in~~ between what was put in by the Prosecution and what he believes should have been the setup.

DR. LATERNSER: If I can go from the point that all the matters mentioned already in front of the Tribunal, then of course I will not ask these questions.

CAPTAIN TUBRIDY: Well that is the point. There is no point in repetition of matters that are generally agreed upon.

BY DR. LATERNSER:

Q The Prosecution maintains that the accused military leaders carried out their duties due to their personal acquaintanceship. What do you know 30

H0959 - 0022

about that?

A The German military leaders carried out their orders under the powers they had as General Staff or as High Command officers. I do not think that any comradeship or any acquaintanceship had anything to do with that.

Q If the Commander-in-Chief of a military section or a military branch wanted to protest or act against the orders of Hitler, let us take, for example, the case of a Commanding Chief of an Army - what could he do if he wanted to act against the wishes of the Fuehrer?

DR. KEMPNER: I object to that question. I do not think that this witness, who was not such a Commander, is in any way competent. He was not an officer educated in General Military Law on this specific question. He was just one of the Generals but not one of the High Commanders who would know how High Commanders had to act under the setup of Hitler. He can testify only about his own experiences but he was not such a High Commander as mentioned here. I think Counsel has a lot of other competent witnesses to answer these questions.

CAPTAIN TUBRIDY: I think the position which the witness had in the German Army put him in a position where he could have obtained such knowledge as to how Commanders immediately superior to him would act to Hitler's orders. The witness may answer.

A The Commander-in-Chief of an Army had to protest or to go to the Commander- in-Chief of the Army Group that he was in. However, if this Army was directly under the orders of the High Command, then the Commander-in-Chief of this particular Army could go directly to the Commander-in-Chief of the entire German Army.

Q Am I right if I say then that this Commander-in-Chief of the German Army then had to go to the Chief of the High Command and it was he who had to make any protests to Hitler?

H0959 - 0023

A The Commander-in-Chief of the German Army was directly under Hitler and not under the Chief of the High Command. Therefore he had to turn directly to Hitler.

Q Therefore, if the Commander of an Army wanted to make any protest or to say anything about an order of Hitler, then he had to go through the Commander-in-Chief of the Army Group and through the Commander-in-Chief of the German Army in order to get to Hitler?

A He had to turn to his next superior through the Commander-in-Chief of the Army Group or the Commander-in-Chief of the German Army. They had to decide and if they could not do that then they had to go to the highest position. After the General Field Marshal von Brauchitsch left, the Commanders-in-Chief of the Army Groups were directly under Hitler who then was Commander-in-Chief of the Army himself.

Q I now want to move off the general theme of questioning and want to ask you concerning single pointsof various campaigns, some of which you participated in. Did you take part in the campaign in the West?

A Yes.

Q During the West Campaign were there any kinds of plundering?

A There were only plunderings in very few cases during the Western campaign, because at that time the discipline of the troops was still very strong.

Q What were the orders concerning plundering?

A The touching of personal property of the persons in occupied territories was strongly prohibited and there were very heavy penalties for plunderings. I remember two specific cases of the Western campaign: All commanders received an order by Field Marshal Brauchitsch that a Major of the Reserve had been sentenced to death because of plundering and that he had been shot. The second case is when I drive with my Commanding General behind the troops into the town of Epernay. We caught some German soldiers plundering a jewelry

H0959 - 0024

store. The Commanding General ordered on the spot that a court martial convene.

Q What was the result of this court martial?

A I believe that they were sentenced to many years of hard labor.

Q You also were in Africa?

A Over one and a half years.

Q How was the war carried out there.

A I can answer that question as to how the war was carried out there in one sentence -- In a knightly manner.

COLONEL ORLOV: Will the witness please speak a little more slowly?

Q Who was your Commander-in-Chief there?

A Field Marshal Rommel.

Q Did Field Marshal Rommel ever order that the laws of war be acted against or did he ever allow such orders to be given?

A Never.

Q In what Division were you under Field Marshal Rommel?

A I was first General Staff officer and later on his Chief.

Q In other words you always had very close contact with him?

A Yes, I had an official and a personal close relation with him.

Q Did you know of the order that Hitler issued on the 18th of October 1942?

A Yes.

Q Did you receive that order?

A Yes we received it in the desert near Sidi Barani, through an officer courier.

Q What was the position that Field Marshal Rommel took to this order?

A Field Marshal Rommel and myself read this order standing beside our vehicles in the desert and I proposed then that this order should not be given out. We then burned this order immediately on the spot. The follow-

H0959 - 0025

ing reasons made us do that: We knew the British orders concerning close combat; we also had heard of cases of the shoulder pistols in Africa; we also knew of the call of Allamein - "Kill the Germans where you meet them" and various other orders of harder combat. We also had received the captured order of the 4th British Armored Brigade where prisoners were not supposed to receive anything to drink. But anyhow we did not want to hand out this order to our lower commanding officers because that would have resulted in sharper tactics on our side and it would not have been imaginable what the final results would have been. That is why the order wound up in fire about ten minutes after we received it. But that kind of disobedience was only possible in another part of the world, so far away from the main headquarters. I do not think that this was possible in the East or in the West.

Q Can you mention or describe briefly the Commando case in which the nephew of the British Field Marshal, Alexander, participated?

A In the fall of 1942 a close relative of Field Marshal Alexander, either his nephew or his son, was captured behind the German lines. He wore a German frock cape and he was armed with a German pistol. Due to that reason he was outside of the military law but Field Marshal Rommel ordered that he should be treated like any other prisoner of war. Field Marshal Rommel believed that the young man was not conscious of the far reaching results that his action could have had.

Q Did German officials ever use German hospital ships for any other use?

A Never. We even prohibited that sick officers without bandages would be carried on these hospital ships. They had to fly.

Q After that you were in the Italian Theater, weren't you?

A Yes.

H0959 - 0026

Q In what capacity?

A From February until June 1943 I was Chief of the Leadership Division of the Commander-in-Chief South and as such was within the Italian High Command Sector, Supremo. From the 15th of June 1943 I became Commander-in-Chief of Staff to the Commander-in-Chief South, which was later renamed Commander-in-Chief Southwest.

Q Who was Commander in Chief at that time?

A Field Marshal Kesselring.

Q During your Italian Campaign were any commando troops captured?

A A whole number of commando troops.

Q What was the action taken with these?

A I can remember the following cases: First of all a commando group was was landed in the fall of 1943, I believe, near Pescara. Of these commandos three men died in battle and we handed the others over to a hospital. I believe that the reports available here in this court stated that "three men had to receive special treatment and nine were wounded." We only used this form in order to please the High Command and in order to prevent any future investigations by the High Command. Nobody was, as it states in this report "treated specially" and not all nine of them, as appears in this report, were wounded either. The General Staff officer working on this case presented this report to me after it had been sent. I was surprised at the first sentence but he told me that otherwise he would receive inquiries from the High Command. Concerning this fact members of the staff of the Tenth Army can also verify. In the future we did not even report any more concerning commandos and we just turned these men over to regular PW Camps.

Q I would like to ask just one further question concerning this case in Pescara. In other words the commando order was not carried out in this case?

H0959 - 0027

A No, I just stated that three men died in battle and the rest were sent to a hospital.

Q And you spoke to the General Staff officer that sent out this report and he stated that this report was only sent out in order to please or to quiet the High Command?

A That was a fact.

Q You may go on to the next case.

A I stated that later on we did not even report any more concerning commandos. For instance in the case of Ancona, I believe a British navy cutter landed there and this entire group was put in prison. Quite a few groups were landed from the air in Genna Valley. Part of them were captured and part of them were able to remain free. The captured prisoners were sent to the regular P/W Camps. I remember that in January a group landed by air and we only found out later on when the Foreign Ministry reported to us that the foreign press was stating that this group was shot. It was possible for us to disqualify this report. I also believe and I stated such in Freising last year that such a commando group was also treated as prisoners of war near LaSpezzia. I only found out here, through Colonel Doestert, that this commando group was shot. I can't remember that case and it probably is because at that time ~~XXXX~~ we were engaged in heavy battles in Central Italy, south of Rome, and the happenings in the North of Italy did not interest us too much. I also do not remember whether this case was reported to us or not. If we had known of the actual happening I am sure that Field Marshal Kesselring would not have approved this shooting.

Q Is it ~~XXXX~~ true that Field Marshal Rommel eased this commando order due to the fact that he stated that he would say what a commando group was and what was not?

H0959 - 0028

A That was not Rommel.

Q I mean Field Marshal Kesselring.

A Yes, that was the case. I want to answer that differently. When I came to Italy at that time I did not find the Commando Order and all the men that were in Africa and then came to Italy did not speak about it, of course with the approval of our Commander-in-Chief.

Q Were any SS Divisions under the Commander-in-Chief West?

A We had one SS Division.

Q What was the manner in which this Division was under your command?

A This SS Division in Italy was under our command in Italy, as it was in every other Theater, only for tactical, that is battle, purposes. Also we were responsible for part of the replacement and equipment of the SS Division.

CAPTAIN TUBRIDY: Replacements?

A No, we were only responsible for supply, food, ammunition and the like. We had no disciplinary or court powers over this Division. We could not make any personnel changes in these Divisions. They also reported daily immediately to Himmler and they practically carried out only those orders, even in battle, which they wanted to carry out. The same is true for the Divisions of the Luftwaffe (Air Corps.) The advantage of all these units was the good material and the good equipment they had. But we would rather have had divisions of the Army because they belonged to us and we could influence them.

Q What was the feeling of Kesselring towards the Italian people before and after the surrender, 1943?

A Field Marshal Kesselring had a deep sympathy for the Italian people. This sympathy was not changed after the Italian surrender, even though he was disappointed because only one day before the capitulation the Italian

H0959 - 0029

commanders assured us that they would continue to fight with us. Field Marshal Kesselring was supposed to be relieved twice of his post in 1943 because of his Italian friendly attitude and the only reason he wasn't relieved at that time was because our troops were not at that time destroyed as was thought would be the case by the O.K.W. I received an order from the O.K.W. in the summer of 1943 that I should use my power to influence General Kesselring to use a little bit more restraint in his actions against the Italians. That was a written order. I am of the opinion that this sympathy of Kesselring to the Italian people was answered by them.

CAPTAIN TUBRIDY: Answered by whom?

A By the Italian people. A very high church personality came to me in 1945 in the name of the Holy Father to express his sympathy to General Kesselring.

Q Was plundering allowed in Italy?

A No. When the plunderings during the heavy bandit warfare in 1944 seemed to take on great proportions, General Kesselring made public an order that all plunderers would be tried under the General Court Martial and death sentences would be handed out.

Q What was done on the part of the Germans to feed the population of Italy and especially the population of Rome?

A We did everything that was possible. I do not want to mention individual cases, I only want to state the following: We had a special German staff to supply the Italian people. General Kesselring and myself concerned ourselves with this question two to three hours daily. We also received approval at that time of the Holy Father. The difficulties were tremendous due to the fact that the three railroad tracks leading north were daily broken and our motor vehicles and gasoline supplies were not sufficient to replace that.

H0959 - 0030

In addition to that, the Italian Fascist officials usually were not in a position to carry out all orders. For that reason we turned to the Vatican in the spring of 1944. We asked the Vatican to see to it that the Allies would declare the Harbor of Vicitavechia, near Rome, as a neutral harbor for the people of southern Italy and Rome. This was never possible inasmuch as, the beginning of June, Rome fell.

Q Was there ever a plan to evacuate the population of Rome?

A Himmler's personal representative informed us in the spring of 1944 that Rome, or at least the male population of Rome, had to be evacuated. We were in opposition to such an order and refused by showing that it was impossible for us to use the needed number of troops for this action. This refusal, which caused heavy discussions, resulted in the statement of the SS Leader at that time - "We will take care of the General Staff after the war."

Q What was General Kesselring's opinion concerning this matter?

A He, as the responsible one, of course refused to evacuate the people. Of course we, the members of his staff, had to carry out the detailed discussions.

Q What destructions were ordered during the retreat of 1943 and what was carried out?

A According to an order of the OKW, anything that could be of any aid to the Allied troops had to be destroyed but we ordered that only the military important installations be destroyed. Railroads, bridges and harbors were among those. After 1944 we depended mainly on hindering the Allied advance, that is, to slow it down.

Q What was the condition of the partisan warfare or activity in your area from 1943 on, that is in Istria, within your area of command?

A I can only give my opinion concerning partisan conditions between the fall of 1943 and the summer of 1944 because after that time I was sick.

H0959-0031

In Istria the partisans were in command of the country. They continually tied down two German Divisions who had a hard time keeping alive. Many cruelties were reported from that area. Stronger partisan activity became evident in Italy in the fall and early winter of 1943 near Rome in the Alpinites and in the foot Alps. However it was possible at that time, through propaganda measures through the radio, the press and the catholic Church, to curb this partisan activity. Partisans were assured that they would not be tried if they returned to their respective villages. A certain reason for this was probably also the cold time of the year. The partisan activity became really large then after June of 1944, but at that time it was, if I may say so, in normal or not too big a scope.

Q What was the opinion of General Kesselring concerning these partisan activities. What were his orders concerning them?

A He stated that this partisan activity was not a regular type of warfare. At that time he used propaganda measures on these partisan groups and he accomplished results, without any doubt, in connection with the Italian government.

Q Did you know the case of Colonel von Gablenz?

A Do I don't but I only remember from the name that a certain von Gablenz was a town commander. When did this case happen?

Q I do not know the exact time. Don't you remember that this Colonel von Gablenz was captured by partisans?

A I read this here in the files of the Court but that was after my time.

Q Where did you cooperate or work together with the SD?

A First in 1943 in Italy. At that time an SD Leader was Police Attache at the Embassy; his name was Kappler.

Q What rank did he have at that time?

H0959 - 0032

A I believe it was Sturmbannfuehrer and he worked together with the Italian police after the capitulation of the Italians in Rome.

Q Was this leader of the SD under the command of the Commander-in-Chief, that is Field Marshal Kesselring?

A No. As far as I know he was not the SD Chief of Italy but merely for Rome and if I remember correctly he was under the command of the Superior SS and Police Leader.

Q What were the duties of this Sturmbannfuehrer Kappler in Rome?

A The duties known to me were cooperation with the Italian police and then mainly what interested us was the supervision of the partisan activity. He heard, of course, through the Italian police, quite a bit of information concerning these partisans such as ~~knock~~ where they were and so on, and that he reported to our staff.

Q In other words that was the only cooperation you had, that is, that he sent on the information to you which he received from the Italian police?

A I want to state that he informed us concerning the partisan activities in all of Italy and also in Rome, that is, the feeling of the population and so on.

Q Did you receive any reports from him?

A I believe that he only sent our staff details concerning the partisan situation. We received a monthly report from the Superior SS and Police Leader. This report contained reports of the feeling of the population, political tendencies, the partisan situation, the strike situation, the black market, and so on. In other words a certain picture of the conditions.

Q Did you ever hear of any arrest of Italian Jews and their deportation to the Reich?

A No. I don't think that the Jewish question had any importance in Italy.

H0959 - 0033

At least that was my impression.

Q What do you know about the Commissioner Order?

A I never saw this Commissioner Order. I was never at the Eastern Front. However, I did hear in Africa, concerning this order, in 1942, from officers who had been transferred from Russia to Africa. They told me that such an order had been given but that it was not being carried out and that it was a backfire order to the SS and Police Groups because the Russians had heard of this order very quickly and now were not giving the SS or Police any pardons.

Q Did you approve at the end of 1943 or 1944 when anti-partisan activities were turned over to Himmler and did your office or command do anything to work against this transfer?

A I did not approve of this in any way and because of that turned to the OKW. I had various discussions by telephone with General von Buttlar there. I asked him that this order be changed. However he stated that Himmler had asked Hitler to be handed this anti-partisan activity as his domain and as such it was handed over to him. The reasons for my disapproval were, first, increased powers for the SS and second we thought that anti-partisan activities were of a military nature and not of a police nature, and for that reason they belonged in the hands of the army and not in the hands of the police. Besides we were not able to influence the police at all. In other words we had no possibility to interfere if the anti-partisan activities were not to our favor.

Q During the interrogation of Field Marshal Kesselring before the Tribunal the case was mentioned of when a German Police Company was destroyed in Rome. What was done or ordered by the office of the Field Marshal Kesselring in this case. You were at that time Chief of Staff under General Kesselring?

H0959 - 0034

A Yes. At that time, March 1944, it was reported to us by the Chief of the 14th Army and the Military Commander of Rome that a German Police Company while marching through the streets of Rome, had been attacked from behind and that the attack resulted in about thirty to thirty-five dead and eighty to eighty-five wounded. Excitement among the German military officials in Rome and the German soldiers in Rome was very great. The participants escaped. The intention to burn down a building block during the excitement, was prevented. I reported this case immediately to the OKW. General von Buttlar received this report. He assured me that the Fuehrer would request very strong counter-measures. He referred to various incidents in France. In the evening an order came from the OKW concerning this. I do not remember whether ten or two hostages were to be shot for each of the Germans killed. The situation was as follows: After the Italian surrender we had to declare Rome an open city. We had to save the character of an open city with all possible means to save it from any bombing attack. For that reason we did not have any anti-aircraft batteries near the railroad station at Rome, the railroad station which we needed for our supplies. We had only two companies within the city. We prohibited our troops to have any kind of quarters within the city. We forced all troops and vehicles to go around the city in order to prevent any possible idea that these troops were marching through the city. We of course requested the quietness by the population. Several small bombing attacks did happen in the beginning of 1944 without serious damage. Now we were confronted with this order by the O.K.W. and on the other hand we were confronted with the necessity to prevent any further cases of crimes against Germans. We did not want to take any hostages because we did not want to harm any people that were not responsible. Then the SD Leader, Kappler, called up General Kesselring. He heard of the order that was sent to us and he stated

H0959-0035

that we did not have to take the hostages since there were already over 300 persons arrested by him or by the Italian Police. He said /Most of these poeple were already sentenced to death for criminal or political activities, mostly for partisan activities, and would be executed anyway. Field Marshal Kesselring did not object that these people should be presented as the hostages and it was in this manner that the publication of this order was handed out to the Italian population. We explained the matter to the Vatican in that manner, after its protest, that is, that we did not take hostages but that people were shot by the Police who had already been sentenced to death. I only found out during an interrogation here that not all of these people had been sentenced to death but that a number of Jews were among them and a number of people that had been sentenced only to life imprisonment.

(A recess was taken until 1400 hours.)

H0959 - 0036

(THE COMMISSION RECONVENED AT 1400 HOU RS.)

(DIRECT EXAMINATION RESUMED.)

BY DR. LATERNSER:

Q Just before recess we spoke of the measures ordered by the OKW in Rome on the occasion of the attack on the police company in Rome. As you testified the OKW ordered the taking of hostages, was this done by the army headquarters, by the army troops or by Kesselring in regard to this measure?

A We did not take any hostages at all. We only made, I should like to say, a propagandistic use of the elements which had been published by the police.

Q Do you mean to say that the executions which took place in connection with this affair were not ordered by the Army?

A We did not order them and we did not carry them out?

Q Who carried out these executions?

A The Police, but I don't know whether it was German or Italian Police.

Q Then, according to your testimony, the order of the OKW was not carried out?

A The order of the OKW to take hostages was not carried out.

Q Did the German military authorities observe the military customs of war in the Italian theater of the war, or do you know of any violations of these laws?

A We always endeavored to observe these laws of warefare, but that violations did happen cannot be disputed. Such violations will always take

H0959 - 0037

place everywhere. As far as these cases were brought to the attention of the Commander in Chief, investigations took place. I also believe that in many cases we endeavored to go beyond military law. I could give three or four examples.

We tried to see to it that only military objectives were attacked with arms or shelled. Through the allied air raids many essential installations were destroyed in the larger cities. In every such instance, we always put technical troops at the disposal of the population and to help them, disregarding our own military needs, by means of blocading important cities and cultural circles and we were able to preserve these places from battle. I already mentioned Rome being declared an "open city." When we had to give up Rome, we did not destroy a single ~~tidal~~ Tiber bridge. The reason for not destroying them was the gas and water mains ran parallel. If any of the ~~tidal~~ Tiber bridges had been destroyed the gas and water supply would also have been interrupted. This cost us at least three days time in the army retreat, of which the enemy was able to make use to advantage. I should like to state that contrary to the order of the OKW we did not lead the Italian divisions of the Italian army into imprisonment in the autumn of 1943, but we dismissed them.

This, of course, refers only to our district, which would mean south of the Ela and Arcoma line. North of this line, there was a different army group, which led the Italians into imprisonment.

Q Is that all you have to say?

A Yes.

Q Did the army group in Italy have anything to do with the confiscation or the safeguarding of art treasures?

H0959 - 0038

A Only insofar as we safeguarded the treasures and the casinos from ~~destruction~~ destruction and handed them over to the Vatican. We did not confiscate one single art treasure and not one single art treasure was taken to Germany with our knowledge.

Q You testified previously as to the steps that were taken to preserve Rome. What additional measures were taken by the army group to spare Florence, Rome and other cultural places?

A We were able to present these cities from becoming the front line and thus save them from destruction. We did so by having to endure considerable military disadvantages.

Q In the future course of the war you were chief of the staff of the Commander in Chief of the west in the autumn of 1944?

A Yes.

Q Were any orders given either before the Ardennes offensive or during the Ardennes offensive to tighten or take more severe battle measures?

CAPTAIN TUBRIDY: Were you chief of staff in 1944 with the ~~staff that was superior to the staff that~~ Commander-in-chief who directed the Ardennes offensive. What position did you hold at that time.

DR. LATERNSER: I tried to clarify this point with my previous question.

BY DR. LATERNSER:

Q Will you please tell us exactly what your position was at the time of the Ardennes offensive?

A I was chief of the staff of the Commander in Chief of the west, who

H0959 - 0039

was Field Marshall Von Rundstedt. At that time there were three army groups subordinate to us and the center of these three army groups was Army Group B, which was given the mission of carrying out the Ardennes offensive.

Q Will you please answer my last question, which I have already put to you. Was it before or during the Ardennes offensive, orders were given relating to strengthening the methods of warefare?

A We neither received any such orders or issued such orders. If I might add and point out that also no methods were used with either the Fifth Tank Division or the Seventh or Fifteenth Army that would point to such a more severe warfare being carried on.

Q Were you informed of the execution of 100 American prisoners of war in Malmedy?

A I was informed of this by means of a radio message that had been picked up. I submitted this immediately to Field Marshall Von Rundstedt and I suggested that he order an investigation. He approved this suggestion. Thereupon, I immediately telephone the Chief of Staff of the Army group, General Krebs and transmitted this order to him. The answer I received from General Krebs was that he considered it impossible. I told him that any personal opinion was of no importance in this case and that the affair was to be investigated immediately.

CAPTAIN TUBIRDY: General Krebs considered what impossible? The investigation?

THE WITNESS: The incident. A short time later, I received a

H0959 - 0040

telephone call from the OKW, it was General Winter. General Winter transmitted an order of the OKW to me to have the affair investigated, therefore, several times during that day I asked General Krebs how the investigation was progressing. After two or three days, he informed me that the Sixth Tank Division had informed him that such an incident had not taken place. We ordered a renewed investigation because we were not satisfied with this information, but we were not informed of the results because immediately afterwards the Sixth Armored Tank Division was transferred to the East, but the OKW was informed.

Q During the course of this trial, a witness, Van der Essen, has been interrogated here who claimed ~~xx~~ the treatment of the civilian population during the Ardennes incident and the behaviour concerning executions of the Prisoners of War were similar. This would lead one to draw the conclusion that an order concerning such measures had been issued by the higher authorities of the OKW. In order to clarify this once and for all, I would like to ask you whether any order was ever given during the Ardennes offensive to the effect that Prisoners of War were to be executed?

A Such an order was never issued. On the contrary, we were interested in taking as many prisoners as possible.

Q Why did you want to take as many prisoners as possible?

A In order to increase the success of this offensive operation.

Q Was any order ever issued relating especially to civil treatment toward the civilian population in the theatre of operation in connection with the Ardennes offensive?

H0959 - 0041

A No. The situation was clarified to this extent however that we were informed by the OKW that we were to decide what organizations, for example were to be admitted into the occupied territory.

Q Did you receive any order by the OKW concerning the deportation of Dutch nationals into the Reich who were able to carry on in the military service? My question refers to the year of 1944.

A I believe in the late autumn of 1944 such an order was issued by the OKW to the military commander of the Netherlands to the Army Group of Heinrich and to us. The reasoning contained in this order was that in case of a defeat - in case of the loss of Holland, the population of Holland would confront us as enemies. As far as I remember, the order was directed to the Military Commander of the Netherlands. He had no troops and in order to remove the population had to bear arms. He turned this over to Army Group H and Army Group H turned it over to us. We reported to the OKW that we should need 50,000 men to carry out this order and that we did not have these 50,000 men at our disposal. We also knew that the OKW would not have them at its disposal at this time. As a result, the transportation or removal did not take place apart from two or three transports, which the higher SS and police leaders of the Netherlands worked and organized himself without our having knowledge about. We received knowledge of this fact when suddenly they arrived in Venlo and had to be quartered and fed there.

Q To what extent did the Commander in Chief Rundstedt at that time order the flood and destruction to be carried out in the Netherlands?

A In ports the harbor installations were ordered to be destroyed to

H0959-0042

such an extent so that they would not be available for use by the enemy immediately. As far as floods were concerned, the results of these are always unsatisfactory in a military sense. We ordered that only territory which could be innundated by swet water should be flooded and that means no sea water innundations. We ordered further that no dykes were to be destroyed for we had experience in the terrible results from air raids. We ordered further that only sluices were to be opened. In the beginning of 1945, we suggested the immobilization of all the Netherlands south of the Jissel sea, in order to save men.

Q Do you mean that this evacuation meant the evacuation by German troops?

A Yes and the withdrawal of the German front lying from the Jissel Sea to Kleve. However, this suggestion was rejected by so many others.

Q What reasons prevailed for this suggestion?

A To save men we wanted to give up this territory at one stroke and by doing so would have rid it of any military or ~~marshall~~ MARTIAL effects.

Q What was done by the Command authorities and especially by the Commander west to keep the pumping ~~comfort~~ stations intact and thus to prevent innundations.

A Coal is needed for pump stations. The coal supply was so small that the danger prevailed that a flood would take place of its own accord in the Netherlands in the spring of 1945. The reason was to be found in the fact that the rail and water transportation lines were interrupted. We therefore made an application and had it approved that coal transports to Holland were to be given Priority One.

H0959 - 0043

Com. A.
Take 3-Pg. 8
Meehan
18 June.

Q Were you very often at the Fuehrer's headquarters for reports?

A I reported to the Fuehrer personally beginning with 1944.

Q What was the impression you received on the occasion of these reports concerning Hitler's attitude and opinion toward his Generals?

A In September of 1944 I was at Hitler's headquarters in East Prussia. At that time I received the impression he had an almost hypochondriac mistrust of the Generals and General staff. I heard the statement that Hitler made, in which he said that he was convinced that many Generals and many officers of the General Staff would rather lose the war, because they were opposed to the regime.

Q Did you observe any particularly unhealthy effects that other people had on Hitler while you were there and how did you get these impressions?

A I personally was able to observe the bad influence of SS Gruppenfuehrer Hegler. He was one of the actual inciters against the army and Himmler's orders. Bormann is also said to have had a very bad influence. Of Bormann, I know that as late as April of 1945 he wanted to have me executed. I do not know him otherwise.

Q Was it very difficult to convince Hitler of a necessary military step?

A In most cases, I should like to ~~see~~ pay it was impossible to get his mind off the decision when he had once decided to make it.

Q Can you give me an example, which would especially clarify this?

A On 6 March, 1945 I was in Berlin to report to Hitler on the war-

H0959 – 0044

tiredness of the German people, about the nonusefulness of the western fortifications and the exhaustion of the German troops. It was a very interesting discussion, which lasted over four hours. I believed that I had convinced him at the end. I believed this all the more because several high officers congratulated me on my perseverance and my attitude. I asked Jodl if he thought my trip had any results and his answer was: "The question is how long?" This conversation took place at nine thirty in the evening. He said, "During our next report at twelve o'clock tonight, he will probably be of a different opinion." That was how it was.

Q One more question. To what would you attribute the reason for the increasing non-importance and influence that the army had, and to what you would say the actual lowering of the influence was due?

A It is difficult to answer this question in a few words. I might answer the question thus. Hitler and the party distrusted the army because they considered the army as being behind the times as far as the ideology and ~~physiology~~ psychology of life was concerned. For as previously, the army failed to fight its battles according to his traditions and continued to fight its battles as a soldier and according to army tradition and not according to ideology traditions. Added to this was the fact that Hitler would not hear any political opinions but his own and he also mistrusted the military affiliations.

H0959 - 0045

Q In other words, you want to say that the reason for this lessing of influence was due to the fact that there was a difference of opinion between Hitler andhis Generals?

A That was undoubtedly the case and this was also shown in the time previous to the war.

Q No further questions.

CROSS EXAMINATION.

BY DR. KEMPNER:

Q You were at the War Academy, were you not?

A Yes.

Q You have stated there that 40% was tactical questions concerning cases of aggression and 60% of the questions at the War Academy was the question of defense. Was that the case?

A I said that 40% of the tasks concerned itself with aggressive operations and 60% with defensive operations and this was in thescope of one division.

Q How many cases out of the 40% of the questions on aggression concerned cases relative to prepare warfare in the case of aggression against Russia?

A Not a single one for we only played on German maps.

Q You had classes of history at the War Academy?

A Yes.

Q In war history?

A Yes.

Q In the question of superior order?

H0959 - 0046

A I believe that we were taught only two such cases and one treated with the American war of sedition and the other a military campaign in Valencia.

Q Were you taught anything about superior orders if the superior orders were foolish or criminal?

A We only received orders concerned with tactics. The principal there is that the higher order would cancel a lesser order if necessary and no mention was made of violations or criminal orders.

Q Have you ever been taught in the War Academy that Russian Generals opposed ~~two~~ orders of armed sovereignty if such orders were foolish?

A I only know of the case of General York.

Q Is that the only case that you know of?

A I believe there is a second case taken from the time of the Seven Year's war when the Prussians refused to carry out an order.

Q Do you agree with such an occasion for Generals to oppose such foolish orders? I ask you about orders which are foolish from a tactical point of view - orders which are military nonsense?

A One would have to endeavor not to carry out these orders, but it is not impossible for every single individual to carry them out if he was in the scope of a larger operation.

Q Have you ever read the pamphlet of Professor Schwinge, who was also a military judge about this topic.

A When was this pamphlet published?

Q In 1938.

A I don't remember.

H0959 - 0047

Q Did Schwinge send you this?

A I don't believe so, otherwise I would know it.

Q Are you very proud that you were an officer of the General Staff?

A Yes.

Q May I ask you, did these members of the General Staff associate with each other frequently or not?

A Only those who knew each other personally.

Q Did you not have any kind of a fraternity or assembly of the former General staff officers?

A There was an organization that was composed of members of the former general staff of the Kaiser's army, the name of this organization was the Schlieffenvereinigung and this organization met once a year on the occasion of Schlieffenvereeing's birthday. There was an annual meeting and a dinner. The younger staff officers became compulsary members of this organization. We paid three marks dues and took part in the dinner.

Q Did this organization issue a circular and some pamphlets?

A One annual printed report was issued once a year, but nothing of importance was in this pamphlet, some few accounts and listings and speeches made during the course of the last meeting were contained in it. It was not a real organization for one did not even know the order Generals personally.

Q I did not ask you about this. Have you been aware of the fact that of the German Army the General Staff were recruited as something better and more effective than all other officers?

H0959 - 0048

A No, we were told that only the best officers in the army were able to become members of the General Staff.

Q Did Hitler hate the General Staff himself so much because you termed yourself as the elite? Was that the reason Hitler hated so much the Generals ~~of the Generals~~ of the General Staff?

A No. I don't believe so and my reasons for this, which is of importance now, is he considered himself too critical and too careful. We did not keep up to his speed and had too many objectives.

Q Would you not have preferred latter methods, which were better to the military view than Hitler's ideas?

A You would have to draw a distinction between the time mentioned. We did not want a war and would have liked to have seen the war prevented. During the war we wanted to manage differently -- and in our opinion better.

Q Before the war, did you think that Hitler's methods of quick armament was pretty bad tactics?

A I did not quite understand the question.

Q May I repeat it in German?

CAPTAIN TUBRIDY: Yes, Doctor Kempner.

(DR. KEMPNER REPEATS THE QUESTION IN GERMAN.)

BY DOCTOR KEMPNER:

Q Go ahead.

A I already testified here, we were against such a quick building up of the army for reasons of troops, etc., also because the entire world would of course be put in arms against us for this method.

H0959 - 0049

Q Is it not true that you would have preferred a rearmament in a more secret way than without warning other powers as Hitler did?

A No, not a secret rearmament. In my opinion that is incapable of being carried out at this time. That would incite even more accusations.

Q Would you have preferred a rearmament that had upset less foreign powers than that ordered by Hitler?

A Yes, a slower method.

Q You said this morning that the German Army, the German Reichsfuehr had only 4,000 officers. According to the figures of the German General staff they had more than 12,000 officers. What do you say about that 4,000 on paper and that 8,000 more in some other way. Don't you know this?

A I consider this impossible. In my opinion we only had 3,600 officers and 400 doctors and veterinarians.

Q Don't you know there were so called "black" or camoflouge cadres?

A Such "black" cadres existed only in 1933 to the extent of (five) 5% strength before 1933. We had no reserve officers.

Q Before 1935?

A A number of officers were recommissioned between 1933 and 1935. I don't know the number in detail.

Q Do you know there were more than 10,000?

A I don't really think so.

Q What is your figure?

A I would say about 2,000 but I cannot say without uncertainity.

Q How many were camoflouged as police officers?

H0959-0050

A They were not camouflaged as police officers; Many police officers were transferred to the army.

Q Don't you know that in 1935 all police regiments just got another cap and were army officers from one day to the other?

A Yes, my answer referred to the time between 1933 and 1935 before the duration.

Q In 1935 they just appeared from the bottom. Do you know that? Answer if you know that?

A No, I wanted to say that a German origin took part beginning in 1933 and to a greater extent in 1935.

Q Do you know that the General Staff participated in preparing this?

A Not in relation to the 36 division army, only in relation to a 21 division army.

Q The only difference betweeen Hitler's Nazi party and the General Staff was that you wanted only 21 divisions and Hitler and the Nazi party wanted 36 divisions, is that correct?

A Yes, after an increase had been assured in Geneva.

Q You speak of Geneva, you know this increase had nothing to do with 21 divisions, do you not?

A No, I don't know that in detail as I was not concerned with these things at that time.

Q This morning you told this commission that some of the SS leaders told you literally that if the General Staff Officers behaved the way you did in the question of the hostages, that it would take care of the General

H0959-0051

Staff after the war. Is that correct?

A It was a little different. I said referring to our resistance concerning the evacuation of Rome. Theanswer given was, "We shall reckon or have our redoning with the General Staff officers after the war."

Q Whom did they mean when they said that they would have their reckoning after the war?/ Whom did they mean when they said the words, "General Staff?"

A They meant what we mean when we refer to the General Staff in Germany - that is the General Staff officers - the assistants of the leadership group.

Q You were suspicious so far as the SD is concerned, were you not?

A No, at that time I only had my suspicions concerning the transfer of partisan combatents to the SS and SD.

Q Otherwise you had good contacts with the SD and SS, insofar as the army was concerned?

A You mean me personally?

Q No, not you personally - the General Staff Officers.

A I don't believe so, but I can only answer as far as I am concerned I only had brief contact with the SS in 1941 in the west and in Italy after the turn of the year after 1943 and 1944.

Q In war, you had good contact with this Kappler?

A My relations to Kappler were cooperative.

Q Were you suspicious against him? Did you think he did something wrong?

50

H0959-0052

A No, I did not think this, but I had a bitter reticence as far as all these people in black were concerned, as I could not understand their necessity.

Q Did you believe these statements as they were reported to you about public opinion, etc.

A Yes, in general I did, for these reports gave us a very good basis. They contained nothing about which we could have an objection?

Q Then, it was a correct corps between two branches of the Reich?

A Yes, the relation and cooperation was with the commander of the staff with the people without a partisan corps.

Q For the purpose of winning the war, is that cocrect?

A It had nothing to do with winning the war. . It was only a matter of the policemen and the soldiers.

Q Both, both branches worked for the betterment of the German Reich, is that correct?

A I don't believe that you can make a comparison between the General Staff and the SD.

Q Everyone did his part, of course?

A Not in my opinion, you can never compare a soldier to a policeman.

Q But, you relied on their statements?

A As far as partisan conditions were concerned, yes.

Q You relied also on the statements about the hostages in Rome?

A No hostages were taken.

H0959-0053

Q I mean these people who were killed and so-called hostages?

A I consider the number mentioned to me by Kappler at that time, of the people who had been sentenced and convicted for numerous political offensives a high report.

Q So you were suspicious about statements in this case?

A Yes, I had my suspicions in this case, but I reported to Kesserling and with six months of examinations we found the number he mentioned was correct.

Q Was Kappler a superior to you?

A No, not a superior or a subordinate.

Q Why did you accept his statement since he was such a police officer? You did not make any ~~xxxxx~~ inquiries of your own?

A We did not apprehend the criminals and furthermore such an investigation would not have been the work of the army group of the 14th Army. The Commandant of Rome, the chief of this army group, did not want to carry out such an investigation.

Q Something else. You got this order in Africa about which we spoke - the order which you ~~xxxxxx~~ burned? Do you remember?

A Yes.

Q You burned this order for reasons of humanity more or less, is that correct as you stated?

A It was burned for the reasons that I mentioned, that is to prevent a tightening of the methods of war fare.

Q Don't you know that you received a straight order to burn this order?

H0959-0054

A No, I don't remember that. We burned it of our own accord, so that it would not fall into the hands of the troops.

Q What troops - the enemy or your troops?

A Our own troops.

Q Don't you know? I quote you now from the order: "The Bureaus named in the distribution list are held reponsible for the return and distribution of all distributed pieces of the order of property." This order is a letter received in October of 1942.

(THE WITNESS IS SHOWN THE DOCUMENT.)

A This is not the Fuehrer's order that we received. This order was received on the 19th and was signed by Jodl. We received an order dated the 18th and it was signed by Hitler. That is the order which we burned.

Q I have the order of the 18th, PS 498. This is the order to which you refer?

CAPTAIN TUBRIDY: Has this been put in evidence by the prosecution?

DR. KEMPNER: USA 501 is PS 498 and USA 542 is PS 503.

BY DR. KEMPNER:

Q I read you now again Document PS 503: "And this order of October 19th refers to the order of October 18th and tells exactly that everything concerning these orders should be destroyed." Now,

53

H0959-0055

I ask you again did you destroy the order for reasons of humanity or because it was ordered, or for both reasons?

A I repeat and under oath that we destroyed this order on our own initiative.

Q For what reason?

A For the reasons that I stated this morning.

Q That you were not afraid the military might get this order?

A No.

Q Thank you, that is all.

BY CAPTAIN TUBRIDY:

Q Was Specia under the army group command to which you were attached.

A Specia was under the army group command of Sunnen and the army ofSunnen was subordinate to us.

Q Then Specia was under the command to which you were attached at the time of this commando raid.

A Yes and always subordinate to the Italian army groups and several intermediate groups and the Zangen. Specia was under the command of a fortification brigade and this brigade was under the 75th corps ~~of~~ and this was under our command.

Q Did any report arrive at your headquarters with regard to this matter of Specia?

A Not as far as I know.

Q You testified many excesses were reported from the area where

H0959-0056

the partisans operated.

A Yes, especially in this corps.

Q Cruelties by whom?

A By the partisans.

Q Was there retaliation by the German divisions in that area?

A Yes, one of the main occupations of the partisans was continually to attack and assault the German Divisions, but of course first of all they attacked individual soldiers and Germans.

Q Were there retaliations by the Wehrmacht?

A At the end of 1943 we issued an order that was effective for our whole area, according to which captured partisans were to be considered as Prisoners of War. This was issued a short time after we took command of the area north of the Rhide Alba.

Q Were these orders observed?

A I should believe so. I also know that the partisans who had been taken prisoner were sent to Germany for labor enforcement, but our time was so much taken up by the actions in Southern Italy that Kesselring went to Italy only once and I never went there at all.

Q You testified that German military authorities observed the customs of war?

A Yes, we endeavored to observe the customs.

Q But that violations did occur?

Q What actions were taken when the violations which occured came to the attention of the Commander in Chief.

A The people who were guilty of having committed such an offense

H0959-0057

were tried before a ~~marshall~~ martial court.

Q Do you know of any cases where this happened?

A I know of cases of looting and rape which were punished very severely.

Q You testified that the military leaders held their position not necessary voluntarily, but they could be commanded into those positions.

A Yes, they were ordered there.

Q Was it possible for them to resign from the position to which they were commanded and ask for some other assignment?

A Are you referring to the time before the war or during the war?

Q Both.

A I believe that before the war an officer could retire for reasons of health and advanced year, but during the war itself even the older officers were only released from their posts if Hitler wished it so. He also said that the soldier in the trench also could not leave this position, therefore the General also had to stay at his position.

Q You testified that the army did everything possible to make preparations for the feeding of the population in Italy?

A Yes.

Q Was food transported from Italy to the Reich?

A I don't know anything about this because the lines of communication were not under our command. I know at least that food was sent from the Reich to Italy.

Q If you say you don't know about the supply lines going from Italy to the Reich, you are not particularly competent to testify as to the feeding of the Italians in Italy?

H0959-0058

A I know this because we spent two or three hours every day on this question in order to transport food from Northern Italy to Central and Southern Italy.

Q You testified that there was not a great deal of control exercised by the Wehrmacht ~~under~~ over these SS divisions.

A Only a very small control could be exercised.

Q Was the tank division implicated in the Malmedy occurance an SS division?

A Yes, an SS division.

Q So that according to your own testimony and ~~directives taken~~ direction about investigating this affair would not be very successful.

A I believe yes. Model who was in command of the army group had a good relationship to the SS group, but there were no other possibilities open to us.

Q You testified in the campaign in the west there was no plundering because the discipline of the troops was strong?

A Very little plundering.

Q So that the provisions for the rules of correct war-fare ~~would~~ were ~~be~~ closely observed?

H0959-0059

18

A Yes

Q Now I take it that you mean to say, when you say the discipline of troops was strong in the West, there was very little violation of rules of warfare. ~~in 1940?~~

A ~~xxx~~ In 1940, yes.

Q And when was the discipline of the troops weak?

A I was only stationed in Africa where the discipline was always good and then in Italy where the discipline became loose in the summer of 1944 and then in the winter of 1944 and 1945 the discipline became very weak but we were then on German territory.

Q When the discipline was weak were war crimes committed?

A No, I don't believe in that year our soldiers did anything in the year 1944 and 1945, they had become much too apathetic, and in connection with this, one must state that such crimes which usually happen at the very foremost front usually are not brought to the attention of the leaders.

(A recess was taken)

58

H0959-0060

DR. LATERNSER: I would like to clear up this point, Mr. Commissioner. After the cross examination is finished the defense counsel should be allowed to talk to the defense witness in private or during the intermission that might occur.

CAPTAIN TUBRIDY: We will just continue as though we had no recess, Dr. Laternser.

DR. LATERNSER: I would like to have the question cleared up, for instance in a case like this when there was a short intermission.

CAPTAIN TUBRIDY: No, we will just continue as though there were no recess in between.

REDIRECT EXAMINATION

BY DR. LATERNSER:

Q Witness, you were asked about the so-called Schwartzen cadres, which at times was about five per-cent of the SS actual strength. Were these Schwartzen cadres organized with the knowledge of the government?

A I would like to emphasize that these schwartzen cadres existed during 1923, that is, this five per-cent, that is about 5,000 to every 100,000. Now that is during the time before Hitler. I at that time was a Lieutenant in the line and do not know whether the government had any knowledge of this but they had to pay for it.

Q Did you have any orders to keep these schwartzen cadre orders secret?

H0959-0061

A Officially these schwartzen cadre orders were, of course, not to be made public, but I cannot remember any especially strong orders concerning them.

Q During cross examination we were also talking about the enlargement of the army from 7 divisions to 36 divisions while the general staff only wanted to enlarge it to 21 divisions. I want to ask you in this connection how strong at that time was the army of Czecho Slovakia?

A I would say about two and a half thousand.

Q And how many divisions?

A I only know that during the war there were 32 divisions and some cavalry brigades.

Q And how strong do you think the Polish army was at that time?

A About 40 divisions peace time strength.

Q I now have a few more questions concerning the relation with the SD. Did I understand you correctly if in answering my questions you said that in Italy there was no connection whatsoever between the SD on one hand and the army on the other?

A Yes, the SD officers in Italy were of a higher and superior rank to the SS leaders and these were under Himmler. They were not under us. We were only informed by the SD of the partisan situation and the strike situation, and so on, as I have explained previously.

H0959-0062

Q Was it true that any officer who received the information concerning the partisan activities had to inform the army/since through activities of the partisans the supply of the army was endangered?

A Yes, certainly.

Q Was that the only reason?

A I don't know of another one.

Q One further question concerning the control of the SS division. During Von Runstedt's offensive was the violation of army laws in army groups which were perpetrated at Malmedy, were these incidents when they were ~~xxxxxxxxxxx~~ investigated, were they investigated by the army authorities or were they again investigated by members ~~xfxxhx~~ or commissions of the SS corps?

A The first ~~xxxxxx~~ reason for the investigation was to find out whether or not the Allied radio report was correct. The investigation had to be carried out through of organizations of groups of the 6th SS armored division, because this 6th Army had, just like very other armored Division, ~~xfxxhxxxxx~~ and every SS Division in the Reich, ~~xxxxxxxxx~~ it's own court martial and its own law.

Q Could Field Marshal Von Runstedt had, if he wanted to, this incident investigated by army authorities?

A To have it investigaged by army charges as you were thinking about, he would have had to have had the

H0959-0063

permission of Himmler and Hitler and this commission would certainly have been turned down with the reason that the SS charges were at least as well or as good as the army chargés. That is why we used the name of Model, because he was in good relations with these men.

Q You were also asked concerning the Shcleffen-vereimgung organization, and I only have one question concerning this: Did this Schleffenveriemgung society have a very social character or did it on the other hand have as it's main goal or one of it's main goals a political, or even an aggressive nature?

A I say that it was purely a social group. We only met together once a year, and did not know the older men at all, and as far as I remember it actually only turned out once that a/~~qu~~unified protest/was made and that was concerning the death of General Von Sleicher.

Q One last question: Concerning the resignation of Generals during the war, concerning which you were asked previously, don't you know that ~~Hitler~~ Hitler gave out a written order forbidding the resignation of Generals?

A I believe he gave out two of these orders but I did not read them, the first one because I was not a general at that time, and the second one since I was sick at that time.

H0959-0064

Q From whom did you hear concerning this written order?

A Colonel General Von Bredenhoff told me about it and General Rommel.

Q And what did he tell you concerning thecontents of this written order?

A I don'tr emember that. They stated, about the thought of their statements were that their hands were tied because for an officer to retire or resign was their strongest weapon.

Q When was this order concerning retirement or resignation put out?

A As far as I am informed it was about the summer of 1944, the first order having been in 1941 or 1942, but I cannot say with certainty concerning that.

DR. LATERNSER: I have no further questions.

RUSSIAN COUNSEL:

Q Were you a party member?

A No.

CAPTAIN TUBRIDY: The witness will be excused.

Com A
Take 4, page 6
Cook
1530 - 1700
18 June 1946

H0959-0065

The foregoing is a true and correct transcript of the testimony of Siegfried Westphal, taken on 18 June 1046

Reporter 58-63

Reporter 1-18

Reporter 19-34

Reporter 35-57

CERTIFIED TO:

Commissioner

Commissioner.

64

H0959-0066

OFFICIAL TRANSCRIPT OF TESTIMONY FOR THE DEFENSE OF ORGANIZATIONS, TAKEN BEFORE A COMMISSION APPOINTED BY THE INTERNATIONAL MILITARY TRIBUNAL PURSUANT TO PARAGRAPH 4, OF THE ORDER OF THE TRIBUNAL DATED 13 MARCH 1946.

18 June 1946

(The Commission convened at 10;00 hours.)

COMMISSIONER:
Capt. Joseph Tubridy

O.K.W.

GENERAL OF THE CAVALRY SIEGFRIED WESTPHAL took the stand and testified as follows:

CAPTAIN TUBRIDY: Will the witness stand, please, and raise his right hand and repeat after me :

I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath).

Will you please give your full name ?

A. Siegfried Westphal.

CAPTAIN TUBRIDY: The witness may be seated.

DR. KEMPNER: Mr. Commissioner, may I make a motion before the Defense lawyer starts questioning of this witness ? We would like to know, before this witness is questioned, whether or not he is a member of one of the indicted organizations. In case he is not, we will file a motion. If the Court wants to know what motion we intend to file, I am ready to mention it right now.

CAPTAIN TUBRIDY: Is the witness a member of one of the indicted organizations ?

WITNESS: No.

CAPTAIN TUBRIDY: In that event, Dr. Kempner, do you want to make a motion ?

DR. KEMPNER: Yes.

CAPTAIN TUBRIDY: What is your motion ?

DR. KEMPNER: Since this witness declares he is not a member of one of the organizations, I want to refer to the charter of the International Military Tribunal which expresses, in Article 9, and I will quote Article 9 now:

H0959-0067

"The trial of any individual member of any group or organization ..."

I mean Article 9, Paragraph 2: "After receipt of the indictment, the tribunal shall give such notice as it thinks fit that the Prosecution intends to ask the Tribunal to make such declaration, and any member of the organization will be entitled to apply to the Tribunal for leave to be heard by the Tribunal upon the question of the criminal character of the organisation."

In other words, we think that the charter allows only to have members of the organization as witnesses here. This is the first law I quote in this respect. The second law, under which we are working, is the rules and regulations of the International Military Tribunal and I refer to the notice of March 13, 1946, signed by Brigadier General Mitchell, and I quote:

"Notice to be posted on the bulletin board in Defendant's Information Room.

"The following order with respect to further proceedings on the charge against organizations and applications of members thereof to be heard has been adopted by the Tribunal."

Here again we have the wording "applications of members thereof" of members of organizations. Therefore we conclude that so far as organizations are concerned, we can have in the court and before the commissioner only members of the organizations to be heard, and without making any suggestions, we just move that the court clarify this question.

CAPTAIN TUBRIDY: I think these provisions are merely permissive. They are not exclusive, Dr. Kempner, and anyone may be called as a witness whether or not they have been members of the organization. We will proceed with the taking of testimony of this witness, but of course you have your right to apply to the Tribunal if you care to.

DR. KEMPNER: I emphasize that we would like to have only a clarification on this point as to what the Commissioner thinks, because this was brought up before other Commissioners and we were not sure.

CAPTAIN TUBRIDY: I think we may proceed.

DR. LATERNSER: I should like to take a position concerning statements made by the Prosecutor.

CAPTAIN TUBRIDY: The matter is terminated, Dr. Laternser. We may proceed with the questioning of the witness.

H0959-0068

DR. LATERNSER: I had intended to make the very same motion because I am also of the same opinion that according to paragraph 9, the commission has the right only to hear members of the organizations who have been indicted. That is stated clearly by the regulations within the charter, and if we are going to proceed now as intended, we would violate the immediate relevancy of the testimony, especially as the Prosecution has been in the position to submit its testimony to the Tribunal by means of direct interrogations. If the Defense here are not in a similar position to do so, a question of unfairness or impartiality would arise.

H0959-0069

CAPT. TUBRIDY: Dr. Laternser, I have already said that in my opinion the clauses that have been presented are permissive but not exclusive. It states what witnesses may appear before the commission, but it does not say only those witnesses may appear before the commission, so I think we may proceed with the examination of the witness.

DR. LATERNSER: I consider this of such momentous importance that a decision would have to be brought about by the Tribunal. I made an application to this effect sometime ago, but have not received any answer to it.

CAPT. TUBRIDY: Do you mean, Dr. Laternser, that you prefer not to proceed with the examination of this witness right now?

DR. LATERNSER: We would first have to receive the decision of the Tribunal so that we would be of a clear opinion concerning these principles.

CAPT. TUBRIDY: Dr. Laternser, in my opinion, there is little doubt as to how the Tribunal would rule.

DR. LATERNSER: I shall then begin with my interrogation but without approving the decision of the Commissioner that this witness is being interrogated according to the rules.

CAPT. TUBRIDY: Very well, we will proceed with that understanding.

DR. LATERNSER: May I sit during the interrogation?

CAPT. TUBRIDY: Yes, surely.

DR. LATERNSER: I intend to interrogate Siegfried Westphal concerning the following:

The training position and missions of the military leaders; whether or not the military leaders composed any political group or organization; whether or not the military leaders participated in any plan with the aim of committing criminal acts according to Article 6 of the Charter, and whether or not the military leaders applied any criminal methods.

DIRECT EXAMINATION

BY DR. LATERNSER:

Q Were you at one time being held as an American prisoner-

H0959-0070

of-war?

A Yes, until I was transferred to thsi prison on the 2nd of October.

Q Are you no longer a prisoner-of-war?

A No, I was interned.

Q Will you please wait after I have asked my question until the translation has been made?

A Yes.

Q What was the last rank that you held?

A General of the Cavalry.

Q When did you enter the Army?

A Late autumn of 1918.

Q Were you a member of the Army? Have you been a member of the Army from that time on without any interruption?

A Yes, without interruption, with the exception of a small intermission in 1919.

Q Will you please give us the positions you held from 1933?

A Until 1935 I was commandeer to the Academy of War. From the summer of 1935 until the autumn of 1938 I was a member of the Operational Staff of the General Staff of the Army. Until the outbreak of the war, I was a member of Cavalry Regiment 13. During the first year of the war, I was One-A of a Divisional Enemy Group at the Western front, and after that, in May 1941, I was ordered to be a member of the German-French Armistice Commission. From June 1941 until the beginning of 1943, I was stationed in Africa. At first, I was the One-A, after that, I was Chief of Field Marshall Rommel's Staff and after that, head of a division.

Q One intermediary question, what were the missions of One-A?

A The One-A is the Chief of the Operational Staff within the Staff, the assistant of the Chief of Staff, but without responsibilities.

Q Will you please continue?

A From February, 1943, until May, 1944, Chief in Italy, and from September 1944 to the end of the war, Chief of the Military Commissioner. After the capitulation, I was used by the American authorities to aid in demobilization, and at the beginning of June, I became a prisoner of war.

Q You said that you attended the Academy of War?

A From 1932 to 1935, yes.

Q What was taught there?

A Tactics, up to and including divisional tactics. The leadership and how to manage the larger groups was not taught. For example, not of Army or Army groups; not of the Navy or of the Airforce. Besides, they taught quartermaster service, rail or transportation service, and the history of war.

Q Was the teaching concerned with offensive operations considered especially important?

A No. A very large p rt of our teachings was concerned with defense operations. In my opinion, about 60%.

Q Was propaganda for wars of aggression circulated at the Academy of War?

A No.

Q What was their attitude concerning International and Military Law?

A The important regulations of the Hague and Geneva conventions were contained in the service regulations. They were contained in the printed service regulations. Every man and every officer within the troops was informed of these regulations. Every member of our Army knew, for example, that it was dishonorable to maltreat

H0959-0072

prisoners of war, or to plunder. I might even say that these principles were imbedded into every officer who was at the Academy of War. International and Military Law at the Academy itself was taught within the teaching allotted to the Quartermaster Service.

Q. In reference to my last question concerning training at the Academy of War, how was politics treated?

A. There was no teaching at all concerning politics. General lectures were held. I remember, for example, one lecture on Nav l warfare, or to express it more appropriately, naval strategy, and I remember individual lectures on historical events of the past. No members of the Foreign Office or any of the political leaders spoke to us. Mr. Ley once held a lecture in our school on the social advantages of the general labor front.

Q. That is sufficient. In which departments of the general staff of the Army were you commandeered?

A. Into the first department of the general staff of the Army which, at that time, was changed into the organizational staff.

Q. And you now refer to the general staff with the High Command of the Ary?

A. Yes.

Q. And when did you enter?

A. On the first of August 1935.

Q. What instructions concerning concentration of troops did you find there?

A. When I was commandeered to this department in the summer of 1935, there were as yet, no concentrations at all. The first concentrations were just being worked on or drawn up and were put into effect in October of that year. In October 1935, the first concentration instructions appeared after a lapse of 21 years. This was termed Concentration Rot. The Rot Concentration was of a purely defensive nature. It was intended to

H0959-0073

plac e three divisions at the French borders, 2 armies at the Polish border, and at the Czechoslovakian border, only frontier and protection and Landswehr, and at all other borders, only customs protection groups.

A part of the army, first one, and later two army groups, remained within the Reich proper in their garrisons in order to be removed to one or the other fronts according to the positions. This concentration was still in force when I left the Operational Division in 1938. Of course, it was revised each year and the number had increased every year, but the number was never large enough for a successful defense in case of a war. Therefore, the General Staff was very much afraid that in case of a conflict with Germany on one hand and France or Czechoslovakia on the other hand, Southern Germany might be lost. We were therefore ordered, in the summer of 1937, to draw up a further concentration. This was Concentration Gruen.

Concentration Gruen was adefensive one so far as it concerned France and Poland, but an offensive concentration in regard to Czechoslovakia. In case of a two-front war, the Czechoslovakian Army was to be defeated first in order to relieve the rear and to have our forces available for the Western front. But the basis of this concentration was not a very firm one concerning the forces that were available at all which, so far as I remember, numbered between 60 and 70 divisions at that time. This concentration plan was only termed a study plan, in addition to the Army group commandos and the General Command No.4. After the Munich Agreement, it was abandoned entirely.

There was, besides this, a military bulletin containing instructions about Prussia. This was naturally, in its entire structure, a defensive one.

Q. What types of maps were the troops equipped with?

A. If I remember, at that time there were four series of maps. Series East, Southeast, West and South. In the West the territory covered extended about 100 kilometers, that is about 50 miles, or 60 miles, into Belgium and France. That was in 1938.

H0959-0074

So far as the South is concerned, I do not remember that in detail, but it did not extend very far. The mapping in the Southeast covered almost all of Czechoslovakia with parts or perhaps the whole territory of Austria and Hungary, and the map series East included, so far as I remember, not quite all of Poland. There were no maps of the other countries of Europe.

Q. What was the opinion expressed by the General Staff of the Army concerning the speed with which the Army was being built up?

A. Do you mean the increase of the Army, the growth of the Army?

Q. Yes.

A. The figure of the 36th Division which was announced in March 1935, surprised us generally. Of course, we had all concerned ourselves in thought with an Army increase because we considered this essential for the security of the country, but as we almost had an Army of 100,000 men at our disposal with the considerable number of 4,000 officers and non-commissioned officers, we had not considered an increase of the Army by trebling it, that is, an increase from 7 divisions to 21 divisions.

The general staff of the army preferred quality to quantity. The staff perferred a small but well trained army to a large army which up to the outbreak of war did not even have a sufficient number of artillery divisions in all battalions. Therefore, difficulties between Hitler and The Army High Command cropped up already in the year 1935. Hitler reproached us for being slow and behind the times and so on, because we were not applying ourselves to building up the Army at a very high speed. That is all.

H0959-0075

Q For how long before the occupation of the Rhineland had the officers of the Operational Staff of the Army known of this intention?

A We numbered about 7 or 8 officers in the Operational Department at that time. 3 or 4 of these, to which I also belonged, did not hear of the occupation of the Rhineland until the day of the occupation. The remaining 3 or 4 were informed about 3 or 5 days previously in order to be able to draft the orders as I was later told.

Q I should like to ask you one more question concerning the previous question. Did Hitler order the increase of the Army from 7 to 36 divisions?

A Yes.

Q And what was the increase that had been suggested by the General Staff?

A We wanted to augment the 7 infantry divisions to 21 infantry divisions, and the 3 cavalry divisions that existed were to remain alongside these 21 divisions. I should like to state here, however, that we did not reject the idea of an Army of 36 divisions. That would be dishonest of me if I said that, but we did not consider it possible to comprise such a large Army on such short notice from a nucleus of 100,000 men. We wanted to work on a solid basis extending over a period of time.

Q Does that mean that the General Staff was against the speed with which this was to be carried out?

A From the very beginning.

Q How long before hand did the officers of the Operational Staff know of the intention to occupy Austria? In treating this question, I wish you would also state here whether such an invasion had been at all prepared.

A I should like to answer this question as follows. In the first place, no plan had been made concerning an invasion of Austria by troops. Secondly, at this time, about 1/2 of the younger officer of the Staff were away on a tactical mission in Thuringia. Without

H0959-0076

any reason, we were recalled to Berlin and arrived there on the eve of the invasion. There we learned from our Department what had in the meantime been ordered by the High authorities.

I only remember that my senior quartermaster and my divisiona chief learned of the invasion 5 hours before the decree concerning this was issued. They worked with such haste at that time because no orders had been issued that the senior quartermaster issued these orders. Moreover, so much friction arose during this invasion.

Q Who was the Chief of Staff at that time?

A General Beck.

Q What was General Beck's opinion and also the officers of the Operational Staffs concerning a possible conflict with Czechoslovakia?

A Already in 1937 General Beck termed this troop concentration plan Gruen--and in my presence--as being terrible. Only as it applied to armament and forces, of course. General Beck, as the Chief officer of the General Staff and the Operational Staff was opposed to armed conflict with Czechoslovakia that had been brought on by us would inevitably have led to a two war front if not into a European war. General Beck expressed this opinion repeatedly in the spring and summer of 1938. I can illustrate this by examples.

In early 1938, all older General Staff officers had to work on a mission and for the final meeting concerning this mission, all officers were asked by General Beck to convene in the Ministry of war. At this meeting General Beck expressed his opposition to a war with Czechoslovakia in no uncertain terms. Furthermore, General Beck expressed this opinion in a memorandum which he submitted to the Chief of the Army High Command. This memorandum was also transmitted to Hitler which caused and aroused much anger.

Besides this, we officers in the Operational Staff had to make comparisons repeatedly on forces, on American forces, and graphical illustrations in order to present the impossibility of a war against

H0959-0077

Czechoslovakia. I also drew some of these up and I was later told that they were also presented to the Reich Chancellor.

Q Did you yourself read Beck's memorandum?

A Yes, I read the memorandum but I don't remember it in detail.

Q But you probably remember the conclusions that he arrive at.

A Yes, certainly. He arrived at the conclusion that it wa impossible for Germany to wage war with Czechoslovakia because suc a war would doubtlessly lead to a European war considering the agreements and treaties which existed in Europe.

Q And from a purely military viewpoint, what conclusions did Beck draw?

A That our forces would be insufficient to put up resistan in the West, perhaps also against Poland and at the same time to also attack Czechoslovakia.

Q What was the opinion expressed by the Chief of the Army High Command concerning this memorandum?

A As far as I remember, he approved this memorandum wholly and submitted it to Hitler.

Q Who was Chief of the O.K.W. at that time?

A Field Marshal von Branchitsch.

Q What did you hear at that time concerning Hitler's attitude toward the doubtful opinions of the General Staff for such a step?

H0959-0078

A Very much could be said concerning Hitler's opposition towar us--free Masons as we were called within Party circles. The most characteristic of this is probably Hitler's so -called reckoning, if I may say so, that he had with General Beck in 1938 on the occasion of the Party Rally in Nurnberg.

Q. Did Hitler as early as 1938 interfere with military preparations?

A These interferences began at that time. I remember two such cases. First of all, he ordered that 2 divisions had to be exchanged at the drilling grounds or the training grounds, and he gave these divisions numbers. Secondly, the labor service that was being built up on the Siegfried Line was armed, at that time, without our knowing about it.

Q What influence did the Chief of the General Staff of the Army have?

A His influence was very much smaller than generally believed by public opinion. He was the military advisor of the Chief of the Army High Command. He had no political influence whatsoever, but he also had no military political influence as the events of 1938 show. His position was entirely different from that of the Chief of the General Staff in the Kaiser's Army. The Chief of the General Staff of the Kaiser's Army was directly subordinated to the Kaiser as the Commander in Chief. But the Chief of the General Staff in the beginning of 1935 was separated from the Supreme Commander in Chief of the Armed Forces by two intermediary forces. That is, the Chief of the High Command of the Army and the Reichsminister of War.

Q Do you know whether the Chief of the General Staff of the Army often reported to Hitler?

A I don't remember if he ever made any reports to Hitler. I only know that he was ordered to appear before Hitler in the Reichs Chancellory a short time before the invasion of Austria as I later heard, and he may have been there once or twice more.

Q That would mean that the Chief of the O.K.H. did not have the right of immediate reporting to the Supreme Commander as the Chief in the Kaiser's Army did.

A No, because he was only subordinated to the Chief of the O.K.H. and was admitted relatively rarely to the presence of the Reichsminister of War. I was present when General Beck was rather indignant about the fact, in

H0959-0079

the autumn of 1937, that he had not seen Minister Von Blomberg for over 5 months.

Q Did your superiors in the O.K.H. meet any Party leaders?

A I never saw any Party leaders inside our office building in 9 months. And I know they did not have any social intercourse but they probably met on official occasions.

Q Did you return to your unit after your work with the General Staff was over?

A Yes.

Q And to which unit?

A Cavalry Regiment 13 at Lueneburg.

Q While you were a member of this Cavalry Regiment, did you entertain any members of the General Staff?

A No, I had no relations whatever with the exception that once in a while one wrote a postcard to one's old comrades. I was once again a troop officer.

Q And you were no longer informed by the General Staff?

A No, nothing at all was said.

Q Was the training that your regiment received related to any war that might appear to be at hand?

A Not at all. The training was the international training that was given every year.

Q And to which year do you refer now?

A To 1938 and 1939.

Q What was the attitude of the officer corps concerning the Polish crises?

A Do you mean officers as a whole?

Q So far as you were in touch with them.

A Yes, I only had contact with the officers of the different troop groups, and I can only give an opinion concerning their attitude. The attitude and opinion of these officers was different from my personal opinion. The general public was of the opinion that Hitler would attain his ends this time too without having rescourse to war, for up to this time he had always been successful with everything.

H0959-0080

Q When I asked you a few minutes ago whether the officers of the General Staff had any contact with Party Leaders, you answered that you never saw any in your building. What was your attitude and the attitude of your superiors to the Party?

A May I speak of my own attitude first?

Q Yes.

A In 1933 I was still one of the younger officers and we young officers placed very much hope in the Party at that time. It seemed very symbolic that at that time the bell chimes of the Potsdam garrison church was made thestation signal of the German radio stations, but I very soon found out that the intentions were not quite so serious. There is a proverb which says, "Be always honorable and honest, and do not deviate from the right path even by a few minutes breadth." Finding this out gave me quite a shock at that time. I was also shocked by the manner of living of many a Party leader in the way it deviated from our education and training, and the rigorousness of all the methods which were applied.

H0959-0081

Q Witness, do you know if your superiors and the chiefs of the General Staff with whom you met were of the same opinion?

A My superiors certainly had the same opinion. We discuss it very often but we were always in the wrong, for the successes that were attained in the years of 1935 to 1938 could not be disputed and the majority probably backed this system at that time.

Q Were you ever active in a political sense?

A Never. And I never voted.

Q Do you know anything about the fact as to whether the high military leaders organized themselves in the sense, for examp that the political organizations did?

A In my own firm conviction and according to the knowledge that I have of the German officer corps, no.

Q Did the military leaders hold their positions voluntarily by reason of which they are now comprised as this one group?

A No, they were commandeered and ordered as is always the case in military life.

Q According to which viewpoints were you employed in the General Staff or in the Higher Command Offices?

A According to the military capabilities and competency.

Q Do you know if political reasons played a role in this?

A Before the war, surely not, but during the war a slight change came about, especially towards the end of the war for at that time men were placed at the head of Army groups who, our opinion, would not have been placed there on the basis of their military abilities.

Q The question I am now going to ask you refers only to the internal position of such an office.

A Yes.

Q Were high military officers who were intended for employment in high command offices refused or deprived of such an appoint ment?

A I might imagine that any officer who had been commandeere to the Commander in Chief of the Army might say to his superior tha

H0959-0082

he did not feel equal to filling such a position when seen from a military viewpoint. But, under internal conditions, such an order had to be carried out, and of course, during the war, when everyone was at the front, no man was able to get out of such an appointment.

Q Herr General, did you find that High German officers met or organized themselves with the purpose of causing or waging wars and then to commit crimes against humanity?

A If there had been any such endeavors prevalent amongst the high German leaders, I would have heard about them in my position with the General Staff. I believe that the testimony I have given concerning the attitude of the Chief of Staff in regard to a war with Czechoslovakia would speak against any such plan. In conclusion, I should like to answer this question in the negative, according to my knowledge.

Q What position did you hold in November, 1937?

A In November 1937, I was General Officer in the Operations Division.

Q As you probably found out in the meantime, on 5 November 1937, a conference took place between Hitler and the Commanders in Chief of the armed forces. In this conference, Hitler designated his future aims. Were any orders, special orders, issued to you after this date in the Operational Department that would deviate from any usual orders that you had previously received in the Operational Department?

A I heard of this conference here in Nurnberg. At that time we heard nothing of it. No special instructions were issued to us. We worked on instructions of Concentration Rot and Concentration Gruen, and also the military instructions concerning concentrations.

Q Do you mean that this work had been ordered to be carried out before November, 1937?

A The work for both concentration plans was concluded in November 1937, and the plans were put into effect in November with

H0959-0083

out any changes.

Q Did the military leaders know of the political aims and methods applied by the political leadership?

A It is well known that Hitler did not think the military leaders capable of any political judgment and I am convinced that he did not inform them of the political aims and methods that he intended to apply.

Q Was the soldier's obligation to obedience a compulsory one or not?

A The soldier was obliged to be obedient on the strength of the military law.

Q And what was the reason given for the soldier's obedience that was to be effected as far as Hitler was concerned?

A It was expressed by popular opinion in popular elections.

CAPTAIN TUBRIDY: Dr. Laternser, I think we will take a recess now for 10 minutes.

(A recess was taken.)

Q. I have two further questions concerning this matter we have been discussing up to now. Was there ever within the German Army any kind of group, organization or club for political purposes?

A. I can think of only one case and that was between 1807 and 1813 in the battle against Napoleon the First.

Q. Of course I asked the question concerning the period where you had personal experience or personal knowledge about the German Army.

A. As far as I know, no.

Q. Did the military leaders have any insight into the military goals of the political or State Leaders?

A. That they did not have this insight is probably best proved by the Summer of 1938. We were forced to prepare for a while while evidently the highest political leaders attempted to solve this question by political means. We never knew of the second or the last intention.

Q. What was the Secret Order No.1?

A. The order of Hitler?

Q. Yes.

A. This order by Hitler was that no office or no officer should recieve information concerning any future measures until such time as it was necessary to inform this group or this officer so that the work could be carried out. It also stated that every office and every officer was allowed to recdive only that much information which was absolutely necessary in order for him to carry out his work. Without a doubt, this order had some advantages from a military standpoint, but I found out thetthoughts behind it only recently.

Q. Was this order adhered to very well?

A. For those who did not adhere to it were military courts-martial. General Staff officers were sentenced to death because in their orders they gave more information concerning the future developments than was absolutely necessary.

H0959-0084

Q. Can you give any specific examples concerning this?

A. There was one in the 40th Armored Corps in Russia. We found out about it through a General Order of the High Command. At that time two General Staff officers were sentenced to death; later on the sentence was rescinded and they were allowed to serve in the Army as regular men. I spoke with one of them personally. Also the Commanding General of that unit, General Stumme, was put before a General Court Martial under the leadership of Goering. All that happened in 1942.

Q. The prosecution combines the officers that it is trying here in a group, and gives them the name of General Staff OKW. First, the question, what do you under of the German General Staff?

A. Under General Staff it is understood come the operational and tactical aides of the High Command.

Q. In other words, what does the General Staff of the Army consist of?

A. It consists of the General Staff Officers.

CAPT. TUBRIDY: Dr. Laternser, a lot of this evidence has already been submitted when the Prosecution put on its case. I think that if there isn't any dispute as to the evidence which did go in that the witness might be confined in his testimony to what he belives is the difference between what was put in by the Prosecution, and what he believes should have been the setup.

DR. LATERNSER: If I can go from the point that all the matters mentioned already in front of the Tribunal, then, of course, I will not ask these questions.

CAPT. TUBRIDY: Well that is the point. There is no point in repetition of matters that are generally agreed upon.

BY DR. LATERNSER:

Q. The Prosecution maintains that the accused military leaders carried out their duties due to their personal acquaintanship. What do you know about that?

H0959-0085

H0959-0086

A. The German military leaders carried out their orders under the poiwers they had as General Staff or as High Corrand officers. I do not think that any comradeship or any acquaintanceship had anything to do with it.

Q. If the Commander-in-Chief of a military section or a military branch wanted to protest or act against the orders of Hitler, let us take, for example, the case of a Commanding Chief of an Army - what could he do if he wanted to act against the wishes of the Fuehrer?

DR. KEMPNER: I object to that question. I do not think that this witness, whowas not such a Commander, is in any way competent. He was not an officer educated in General Military Law on this specific question. He was just one of the Generals, but not one of the High Commanders who would know how High Commanders had to act under the setup of Hitler. He can testify only about his own experiences, but he was not such a High Commander as mentioned here. I think Counsel has a lot of other competent witnesses to answer these questions.

CAPT. TUBRIDY: I think the position which the witness had in the German Army put him in a position where he could have obtained such knowledge as to how Commanders immediately superior to him would act to Hitler's orders. The witness may answer.

A. The Commander-in-Chief of an Army had to protest or to go to the Commander-in-Chief of the Army Group that he was in. However, if this Army was directly under the orders of the High Command, then the Commander-in-Chief of this particular army could go directly to the Commander-in-Chief of the entire German Army.

Q. Am I right if I say then that this Commander-in-Chief of the German Army then had to go to the Chief of the High Command, and it was he who had to make any protests to Hitler?

A. The Commander-in-Chief of the German Army was directly under Hitler, and not under the Chief of the High Command. Therefore, he had to turn directly to Hitler.

Q. Therefore, if the Commander of an Army wanted to make any protest or to say anything about an order of Hitler, then he had to go through

H0959-0087

Q. Therefore, if the Commander of an Army wanted to make any protest or to say anything about an order of Hitler, then he had to go through the Commander-in-Chief of the Army Group and through the Commander-in-Chief of the German Army in order to get to Hitler?

A. He had to turn to his next superior through the Commander-in-Chief of the Army Group, or the Commander-in-Chief of the German Army. They had to decide and if they could not do that, then they had to go to the highest position. After the General Field Marshal von Brauchitsch left, the Commanders-in-Chief of the Army Groups were directly under Hitler who then was Commander-in-Chief of the Army himself.

Q. I now want to move off the general theme of questioning and want to ask you concerning single poins of various campaigns, some of which you participated in. Did you take part in the campaign in the West?

A. Yes.

Q. During the West Campaign were there any kinds of plundering?

A. There were only pludering in very few cases during the Western campaign, because at that time the discipline of the troops was still very strong.

Q. What were the orders concerning plundering?

A. The touching of personal property of the persons in occupied territories was strongly prohibited and there were very heavy penalties for plunderings. I remember two specific cases of the Western campaign: All commanders received an order by Field Marshal Brauchitsch that a Major of the Reserve had been sentenced to death because of plundering, and that he had been shot. The second case is when I drive with my Commanding General behind the troops into the town of Epernay. We caught some German soldiers plundering a jewelry

HO959-0088

store. The Commanding General ordered on the spot that a court martial convene.

Q What was the result of this court martial?

A I believe that they were sentenced to many years of hard labor.

Q You also were in Africa?

A Over one and a half years.

Q How was the war carried out there.

A I can answer that question as to how the war was carried out there in one sentence -- In a knightly manner.

COLONEL ORLOV: Will the witness please speak a little more slowly?

Q Who was your Commander-in-Chief there?

A Field Marshal Rommel.

Q Did Field Marshal Rommel ever order that the laws of war be acted against or did he ever allow such orders to be given?

A Never.

Q In what Division were you under Field Marshal Rommel?

A I was first General Staff officer and later on his Chief.

Q In other words you always had very close contact with him

A Yes, I had an official and a personal close relation with him.

Q Did you know of the order that Hitler issued on the 18th of October 1942?

A Yes.

Q Did you receive that order?

A Yes, we received it in the desert near Sidi Barani, throu an officer courier.

Q What was the position that Field Marshal Rommel took to this order?

A Field Marshal Rommel and myself read this order standing beside our vehicles in the desert and I proposed then that this order should not be given out. We then burned this order immediately on the spot. The following reasons made us do that: We knew th

H0959-0089

British orders concerning close combat; we also had heard of cases of the shoulder pistols in Africa; we also knew of the call of Allamein - "Kill the Germans where you meet them" and various other orders of harder combat. We also had received the captured order of the 4th British Armored Brigade where prisoners were not suppose to receive anything to drink. But anyhow we did not want to hand out this order to our lower commanding officers because that would have resulted in sharper tactics on our side and it would not have been imaginable what the final results would have been. That is why the order wound up in fire about ten minutes after we received it. But that kind of disobedience was only possible in another par of the world, so far away from the main headquarters. I do not thi that this was possible in the East or in the West.

Q Can you mention or describe briefly the Commando case in which the nephew of the British Field Marshal, Alexander, participated?

A In the fall of 1942 a close relative of Field Marshal Alexander, either his nephew or his son, was captured behind the German lines. He wore a German frock cap and he was armed with a German pistol. Due to that reason he was outside of the military law but Field Marshal Rommel ordered that he should be treated like any other prisoner of war. Field Marshal Rommel believed that the young man was not conscious of the far reaching results that his action could have had.

Q Did German officials ever use German hospital ships for any other use?

A Never. We even prohibited that sick officers without bandages would be carried on these hospital ships. They had to fly.

Q After that you were in the Italian Theater, weren't you?

A Yes.

Q In what capacity?

A From February until June 1943 I was Chief of the Leadership Division of the Commander-in-Chief South and as such as within the Italian High Commqnd Sector, Supremo. From the 15th of June

H0959-0090

1943 I became Commander-in-Chief of Staff to the Commander-in-Chief South, which was later renamed Commander-in-Chief Southwest.

Q Who was Commander in Chief at that time?

A Field Marshal Kesselring.

Q During your Italian Campaign were any commando troops captured?

A A whole number of commando troops.

Q What was the action taken with these?

A I can remember the following cases: First of all a commando group was landed in the fall of 1943, I believe, near Pescara. Of these commandos three men died in battle and we handed the others over to a hospital. I believe that the reports available here in this court stated that "three men had to receive special treatment and nine were wounded." We only used this form in order to please the High Command and in order to prevent any future investigations by the High Command. Nobody was, as it states in this report "treated specially" and not all nine of them, as appears in this report, were wounded either. The General Staff officer working on this case presented this report to me after it had been sent. I was surprised at the first sentence but he told me that otherwise he would receive inquiries from the High Command. Concerning this fact members of the staff of the Tenth Army can also verify. In the future, we did not even report any more concerning commandos and we just turned these men over to regular PW Camps.

Q I would like to ask just one further question concerning this case in Pescara. In other words the commando order was not carried out in this case?

A No, I just stated that three men died in battle and the rest were sent to a hospital.

Q And you spoke to the General Staff officer that sent out this report and he stated that this report was only sent out in order to please or to quiet the High Command ?

A That was a fact.

Q You may go on to the next case.

A I stated that later on we did not even report any more concerning commandos. For instance in the case of Ancona, I believe a British navy cutter landed there and this entire group was put in prison. Quite a few groups were landed from the air in Genna Valley. Part of them were captured and part of them were able to remain free. The captured prisoners were sent to the regular P/W Camps. I remember that in January a group landed by air and we only found out later on when the Foreign Ministry reported to us that the foreign press was stating that this group was shot. It was possible for us to disqualify this report. I also believe and I stated such in Freising last year that such a commando group was also treated as prisoners of war near La Spezzia. I only found out here, through Colonel Doestert, that this commando group was shot. I can't remember that case and it probably is because at that time we were engaged in heavy battles in Central Italy, south of Rome, and the happenings in the North of Italy did not interest us too much. If we had known of the actual happening I am sure that Field Marshal Kesselring would not have approved this shooting.

Q Is it true that Field Marshal Rommel eased this commando order due to the fact that he stated that he would say what a commando group was and what was not ?

A That was not Rommel.

Q I mean Field Marshal Kesselring.

A Yes, that was the case. I want to answer that differently. When I came to Italy at that time I did not find the Commando Order and all the men that were in Africa and then came to Italy did not speak about it, of course with the approval of our Commander-in-Chief.

Q Were any SS Divisions under the Commander-in-Chief West ?

A We had one SS Division.

Q What was the manner in which this Division was under your command ?

H0959-0091

A This SS Division in Italy war under our command in Italy, as it was in every other Theater, only for tactical, that is battle, purposes. Also we were responsible for part of the replacement and equipment of the SS Division.

CAPTAIN TUBRIDY : Replacements ?

A No, we were only responsible for supply, food, ammunition and the like. We had no disciplinary or court powers over this Division. We could not make any personnel changes in these Divisions. They also reported daily immediately to Himmler and they practically carried out only those orders, even in battle, which they wanted to carry out. The same is true for the Divisions of the Luftwaffe (Air Corps). The advantage of all these units was the good material and the good equipment they had. But we would rather have had divisions of the Army because they belonged to us and we could influence them.

Q What was the feeling of Kesselring towards the Italian people before and after the surrender, 1943 ?

A Field Marshal Kesselring had a deep sympathy for the Italian people. This sympathy was not changed after the Italian surrender, even though he was disappointed because only one day before the capitulation the Italian commanders assured us that they would continue to fight with us. Field Marshal Kesselring was supposed to be relieved twice of his post in 1943 because of his Italian friendly attitude and the only reason he wasn't relieved at that time was because our troops were not at that time destroyed as was thought would be the case by the O.K.W. I received an order from the O.K.W. in summer of 1943 that I should use my power to influence General Kesselring to use a little bit more restraint in his actions against the Italians. That was a written order. I am of the opinion that this sympathy of Kesselring to the Italian people was answered by them.

CAPTAIN TUBRIDY : Answered by whom ?

A By the Italian people. A very high church personality came to me in 1945 in the name of the Holy Father to express his sympathy to General Kesselring.

Q Was plundering allowed in Italy ?

A No. When the plunderings during the heavy bandit warfare in 1944 seemed to take on great proportions, General Kesselring made public an order that all plunderers would be tried under the General Court Martial and death sentences would be handed out.

H0959-0092

Q What was done on the part of the Germans to feed the population of Italy and especially the population of Rome ?

A We did everything that was possible. I do not want to mention individual cases, I only want to state the following : We had a special German staff to supply the Italian people. General Kesselring and myself concerned ourselves with this question two or three hours daily. We also received approval at that time of the Holy Father. The difficulties were tremendous due to the fact that the three railroad tracks leading north were daily broken and our motor vehicles and gasoline supplies were not sufficient to replace that.

H0959-0093

H0959-0094

In addition to that, the Italian Fascist officials usually were not in a position to carry out all orders. For that reason we turned to the Vatican in the spring of 1944. We asked the Vatican to see to it that the Allies would declare the Harbor of Vicitavechia, near Rome, as a neutral harbor for the people of southern Italy and Rome. This was never possible inasmuch as, the beginning of June, Rome fell.

Q Was there ever a plan to evacuate the population of Rome?

A Himmler's personal representative informed us in the spring of 1944 that Rome, or at least the male population of Rome, had to be evacuated. We were in opposition to such an order and refused by showing that it was impossible for us to use the needed number of troops for this action. This refusal, which caused heavy discussions, resulted in the statement of the SS Leader at that time - "We will take care of the General Staff after the war."

Q What was General Kesselring's opinion concerning this matter?

A He, as the responsible one, of course refused to evacuate the people. Of course we, the members of his staff, had to carry out the detailed discussions.

Q What destructions were ordered during the retreat of 1943 and what was carried out?

A According to an order of the OKW, anything that could be of any aid to the Allied troops had to be destroyed but we ordered that only the military important installations be destroyed. Railroads, bridges and harbors were among those. After 1944 we depended mainly on hindering the Allied advance, that is, to slow it down.

Q What was the condition of the partisan warfare or activity in your area from 1943 on, that is in Istria, within your area of command?

A I can only give my opinion concerning partisan conditions between the fall of 1943 and the summer of 1944 because

after that time I was sick. In Istria the partisans were in command of the country. They continually tied down two German Divisions who had a hard time keeping alive. Many cruelties were reported from that area. Stronger partisan activity became evident in Italy in the fall and early winter of 1943 near Rome in the Alpinites and in the foot Alps. However it was possible at that time, through propaganda measures through the radio, the press and the Catholic Church, to curb this partisan activity. Partisans were assured that they would not be tried if they returned to their respective villages. A certain reason for this was probably also the cold time of the year. The partisan activity became really large then after June of 1944, but at that time it was, if I may say so, in normal or not too big a scope.

Q What was the opinion of General Kesselring concerning these partisan activities? What were his orders concerning them?

A He stated that this partisan activity was not a regular type of warfare. At that time he used propaganda measures on these partisan groups and he accomplished results, without any doubt, in connection with the Italian government.

Q Did you know the case of Colonel von Gablenz?

A No I don't but I only remember from the name that a certain von Gablenz was a town commander. When did this case happen?

Q I do not know the exact time. Don't you remember that this Colonel von Gablenz was captured by partisans?

A I read this here in the files of the Court but that was after my time.

Q Where did you cooperate or work together with the SD?

A First in 1943 in Italy. At that time as SD Leader was Police Attache at the Embassy; his name was Kappler.

Q What rank did he have at that time?

A I believe it was Sturmbannfuehrer and he worked together with the Italian police after the capitulation of the Italians

H0959-0096

in Rome.

Q Was this leader of the SD under the command of the Commander-in-Chief, that is Field Marshal Kesselring?

A No. As far as I know he was not the SD Chief of Italy but merely for Rome and if I remember correctly he was under the command of the Superior SS and Police Leader.

Q What were the duties of this Sturmbannfuehrer Kappler in Rome?

A The duties known to me were cooperation with the Italian police and then mainly what interested us was the supervision of the partisan activity. He heard, of course, through the Italian police, quite a bit of information concerning these partisans such as where they were and so on, and that he reported to our staff.

Q In other words that was the only cooperation you had, that is, that he sent on the information to you which he received from the Italian police?

A I want to state that he informed us concerning the partisan activities in all of Italy and also in Rome, that is, the feeling of the population and so on.

Q Did you receive any reports from him?

A I believe that he only sent our staff details concerning the partisan situation. We received a monthly report from the Superior SS and Police Leader. This report contained reports of the feeling of the population, political tendencies, the partisan situation, the strike situation, the black market, and so on. In other words a certain picture of the conditions.

Q Did you ever hear of any arrest of Italian Jews and their deportation to the Reich?

A No. I don't think that the Jewish question had any importance in Italy.

H0959-0097

At least that was my impression.

Q What do you know about the Commissioner Order?

A I never saw this Commissioner Order. I was never at the Eastern Front. However, I did hear in Africa, concerning this order, in 1942, from officers who had been transferred from Russia to Africa. They told me that such an order had been given but that it was not being carried out and that it was a backfire order to the SS and Police Groups because the Russians had heard of this order very quickly and now were not giving the SS or Police any pardons.

Q Did you approve at the end of 1943or 1944 when anti-partisan activities were turned over to Himmler and did your office or command do anything to work against this transfer?

A I did not approve of this in any way and because of that turned to the OKW. I had various discussions by telephone with General von Buttlar there. I asked him that this order be changed. However, he stated that Himmler had asked Hitler to be handed this anti-partisan activity as his domain and as such it was handed over to him. The reasons for my disapproval were, first, increased powers for the SS and second, we thought that anti-partisan activities were of a military nature and not of a police nature, and for that reason they belonged in the hands of the army and not in the hands of the police. Besides we were not able to influence the police at all. In other words we had no possibility to interfere if the anti-partisan activities were not to our favor.

Q During the interrogation of Field Marshal Kesselring before the Tribunal the case was mentioned of when a German Police Company was destroyed in Rome. What was done or ordered by the office of the Field Marshal Kesslring in this case? You were at that time Chief of Staff under General Kesselring?

A Yes. At that time, March 1944, it was reported to us by the Chief of the 14th Army and the Military Commander of Rome that a German Police Company while marching through the streets of Rome, had been attacked from behind and that the attack resulted in about thirty to thirty-five dead and eighty to eighty-five wounded. Excitement among the German military officials in Rome and the German soldiers in Rome was very great. The participants escaped. The intention to burn down a building block during the excitement,

H0959-0098

was prevented. I reported this case immediately to the OKW. General von Buttlar received this report. He assured me that the Fuehrer would request very strong counter-measures. He referred to various incidents in France. In the evening an order came from the OKW concerning this. I do not remember whether ten or two hostages were to be shot for each of the Germans killed. The situation was as follows: After the Italian surrender we had to declare Rome an open city. We had to save the character of an open city with all possible means to save it from any bombing attack. Fpr that reason we did not have any anti-aircraft batteries near the railroad station at Rome, the railroad station which we needed for our supplies. We had only two companies within the city. We prohibited our troops to have any kind of quarters within the city. We forced all troops and vehicles to go around the city in order to prevent any possible idea that these troops were marching through the city. We, of course, requested the quietness by the population. Several small bombing attacks did happen in the beginning of 1944 without serious damage. Now we were confronted with this order by the OKW and on the other hand we were confronted with the necessity to prevent any further cases of crimes against Germans. We did not want to take any hostages because we did not want to harm any people that were not responsible. Then the SD Leader, Kappler, called up General Kesselring. He heard of the order that was sent to us and he stated that we did not have to take the hostages since there were already over 300 persons arrested by him or by the Italian Police. He said most of these people were already sentenced to death for criminal or political activities, mostly for partisan activities, and would be executed anyway. Field Marshal Kesselring did not object that these people should be presented as the hostages and it was in this manner that the publication of this order was handed out to the Italian population. We explained the matter to the Vatican in that manner, after its protest, that is, that we did not take hostages but that people were shot by the Police who had already been sentenced to death. I only found out during an interrogation here that not all of these people had been sentenced to death but that a number of Jews were among them and a number of people that had been sentenced only to life imprisonment.

(A recess was taken until 1400 hours.)

H0959-0099

(THE COMMISSION RECONVENED AT 1400 HOURS.)

(DIRECT EXAMINATION RESUMED.)

BY DR. LATERNSER:

Q Just before recess we spoke of the measures ordered by the OKW in Rome on the occasion of the attack on the police company in Rome. As you testified the OKW ordered the taking of hostages, was this done by the army headquarters, by the army troops or by Kesselring in regard to this measure?

A We did not take any hostages at all. We only made, I should like to say, a propagandistic use of the elements which had been published by the police.

Q Do you mean to say that the executions which took place in connection with this affair were not ordered by the Army?

A We did not order them and we did not carry them out?

Q Who carried out these executions?

A The Police, but I don't know whether it was German or Italian Police.

Q Then according to your testimony, the order of the OKW was not carriedout?

A The order of the OKW to take hostages was not carried out.

Q Did the German military authorities observe the military customs of war in the Italian theater of the war, or do you know of any violations of these laws?

A We always endeavored to observe these laws of warfare, but that violations did happen cannot be disputed. Such violations will always take place everywhere. As far as these cases were brought to the attention of the Commander in Chief, investigations took place. I also believe that in many cases we endeavored to go beyond military law. I could give three or four examples.

We tried to see to it that only military objectives were attacked with arms or shelled. Through the allied air raids many essential installations were destroyed in the larger cities. In every such instance, we always put technical troops at the disposal of the population and to help them, disregarding our own military needs, by means of blockading important cities

H0959-0100

and cultural circles and we were able to preserve these places from battle. I already mentioned Rome being declared an "open city". When we had to give up Rome, we did not destroy a single Tiber bridge. The reason for not destroying them was the gas and water mains ran parallel. If any of the Tiber bridges had been destroyed the gas and water supply would also have been interrupted. This cost us at least three days time in the army retreat, of which the enemy was able to make use to advantage. I should like to state that contrary to the order of the OKW we did not lead the Italian divisions of the Italian army into imprisonment in the autumn of 1943, but we dismissed them.

This, of course, refers only to our district, which would mean south of the Ela and Arcoma line. North of this line, there was a different army group, which led the Italians into imprisonment.

Q Is that all you have to say?

A Yes.

Q Did the army group in Italy have anything to do with the confiscation or the safeguarding of art treasures?

A Only insofar as we safeguarded the treasures and the casinos from destruction and handed them over to the Vatican. We did not confiscate one single art treasure and not one single art treasure was taken to Germany with our knowledge.

Q You testified previously as to the steps that were taken to preserve Rome. What additional measures were taken by the army group to spare Florence, Rome and other cultural places?

A We were able to present these cities from becoming the front line and thus save them from destruction. We did so by having to endure considerable military disadvantages.

Q In the future course of the war you were chief of the staff of the Commander in Chief of the west in the autumn of 1944?

A Yes.

Q Were any orders given either before the Ardennes offensive or during the Ardennes offensive to tighten or take more severe battle measures?

H0959-O101

CAPTAIN TUBRIDY: Were you chief of staff in 1944 with the Commander-in-Chief who directed the Ardennes offensive. What position did you hold at that time.

DR. LATERNSER: I tried to clarify this point withmy previous question.

BY DR. LATERNSER:

Q Will you please tell us exactly what your position was at the time of the Ardennes offensive?

A I was chief of the staff of the Commander in Chief of the west, who

H0959-0102

was Field Marshal von Rundstedt. At that time there were three army groups subordinate to us and the center of these three army groups was Army Group B, which was given the mission of carrying out the Ardennes offensive.

Q Will you please answer my last question, which I have already put to you. Was it before or during the Ardennes offensive, orders were given relating to strengthening the methods of warfare--?

A We neither received any such orders or issued such orders. If I might add and point out that also no methods were used with either the Fifth Tank Division or the Seventh or Fifteenth Army that would point to such a more severe warfare being carried on.

Q Were you informed of the execution of 100 American prisoners of war in Malmedy?

A I was informed of this by means of a radio message that had been picked up. I submitted this immediately to Field Marshal von Rundstedt and I suggested that he order an investigation. He approved this suggestion. Thereupon, I immediately telephoned the Chief of Staff of the Army group, General Krebs, and transmitted this order to him. The answer I received from General Krebs was that he considered it impossible. I told him that any personal opinion was of no importance in this case and that the affair was to be investigated immediately.

CAPTAIN TUBRIDY: General Krebs considered what impossible? The investigation?

THE WITNESS: The incident. A short time later, I received a telephone call from the OKW, it was General Winter. General Winter transmitted an order of the OKW to me to have the affair investigated, therefore, several times during that day I asked General Krebs how the investigation was progressing. After two or three days, he informed me that the Sixth Tank Division had informed him that such an incident had not taken place. We ordered a renewed investigation because we were not satisfied with this information, but we were not informed of the results because immediately afterwards the Sixth Armored Tank Division was transferred to the East, but the OKW was informed.

Q During the course of this trial, a witness, Van der Essen, has been interrogated here who claimed the treatment of the civilian population

H0959-0103

during the Ardennes incident and the behavior concerning executions of the Prisoners of War were similar. This would lead one to draw the conclusion that an order concerning such measures had been issued by the higher authorities of the OKW. In order to clarify this once and for all, I would like to ask you whether any order was ever given during the Ardennes offensive to the effect that Prisoners of War were to be executed?

A Such an order was never issued. On the contrary, we were interested in taking as many prisoners as possible.

Q Why did you want to take as many prisoners as possible?

A In order to increase the success of this offensive operation.

Q Was any order ever issued relating especially to civil treatment toward the civilian population in the theatre of operation in connection with the Ardennes offensive?

A No. The situation was clarified to this extent, however, that we were informed by the OKW that we were to decide what organizations, for example, were to be admitted into the occupied territory.

Q Did you receive any order by the OKW concerning the deportation of Dutch nationals into the Reich who were able to carry on in the military service? My question refers to the year of 1944.

A I believe in the late autumn of 1944 such an order was issued by the OKW to the military commander of the Netherlands to the Army Group of Heinrich and to us. The reasoning contained in this order was that in case of a defeat -- in case of the loss of Holland, the population of Holland would confront us as enemies. As far as I remember, the order was directed to the Military Commander of the Netherlands. He had no troops and in order to remove the population had to bear arms. He turned this over to Army Group H and Army Group H turned it over to us. We reported to the OKW that we should need 50,000 men to carry out this order and that we did not have these 50,000 men at our disposal. We also knew that the OKW would not have them at its disposal at this time. As a result, the transportation or removal did not take place apart from two or three transports, which the higher SS and police leaders of the Netherlands worked and organized himself without our having knowledge about. We received knowledge of this fact when suddenly they arrived in Venlo and had to be quartered and fed there.

H0959-0104

Q To what extent did the Commander in Chief Rundstedt at that time order the flood and destruction to be carried out in the Netherlands?

A In ports the harbor installations were ordered to be destroyed to

such an extent so that they would not be available for use by the enemy immediately. As far as floods were concerned, the results of these are always unsatisfactory in a military sense. We ordered that only territory which could be innundated by sweet water should be flooded and that means no sea water innundations. We ordered further that no dykes were to be destroyed for we had experience in the terrible results from air raids. We ordered further that only sluices were to be opened. In the beginning of 1945, we suggested the immobilization of allthe Netherlands south of the Jissel sea, in order to save men.

Q Do you mean that this evacuation meant the evacuation by German troops?

A Yes and the withdrawal of the German front lying from the Jissel Sea to Kleve. However, this suggestion was rejected by so many others.

Q What reasons prevailed for this suggestion?

A To save men we wanted to give up this territory at one stroke and by doing so would have rid it of any military or martial effects.

Q What was done by the Command authorities and especially by the Commander west to keep the pumping stations intact and thus to prevent innundations.

A Coal is needed for pump stations. The coal supply was so small that the danger prevailed that a flood would take place of its own accord in the Netherlands in thespring of 1945. The reason was to be found in the fact that the rail and water transportation lines were interrupted. We therefore made an application and had it approved that coal transports to Holland were to be given Priority One.

Q Were you very often at the Fuehrer's headquarters for reports?

A I reported to the Fuehrer personally beginning with 1944.

Q What was the impression you received on the occasion of these reports concerning Hitler's attitude and opinion toward his Generals?

A In September of 1944 I was at Hitler's headquarters in East Prussia. At that time I received the impression he had an almost hypochondriac mistrust of the Generals and General staff. I heard the statement that Hitler made, in which he said that he was convinced that many Generals and many officers of the General Staff would rather lose the war, because they were opposed to the regime.

H0959-0105

H0959-0106

Q Did you observe any particularly unhealthy effects that other people had on Hitler while you were there and how did you get these impressions?

A I personally was able to observe the bad influence of SS Gruppenfuehre Hegler. He was one of the actual inciters against the army and Himmler's orders. Bormann is also said to have had a very bad influence. Of Bormann, I know that as late as April of 1945 he wanted to have me executed. I do not know him otherwise.

Q Was it very difficult to convince Hitler of a necessary military step?

A In most cases, I should like to say it was impossible to get his mind off the decision when he had once decided to make it.

Q Can you give me an example, which would especially clarify this?

A On 6 March, 1945 I was in Berlin to report to Hitler on the war-tirednessof the German people, about the nonusefulness of the western fortifications and he exhaustion of the German troops. It was a very interesting discussion, which lasted over four hours. I believed that I had convinced him at the end. I believed this all the more because several high officers congratulated me on my perseverance and my attitude. I asked Jodl if he thought my trip had any results and his answer was: "The question is how long?" This conversation took place at nine thirty in the evening. He said, "During our next report at twelve o'clock tonight, he will probably be of a different opinion." That was how it was.

Q One more question. To what would you attribute the reason for the increasing non-importance and influence that the army had, and to what would you say the actual lowering of the influence was due?

A It is difficult to answer this question in a few words. I might answer the question thus. Hitler and the party distrusted the army because they considered the army as being behind the times as far as the ideology and psychology of life was concerned. For as previously, the army failed to fight its battles according to his traditions and continued to fight its battles as a soldier and according to army tradition and not according to ideology traditions. Added to this was the fact that Hitler would not hear any political opinions but his own and he also mistrusted the military affiliations.

H0959-0107

Q In other words, you want to say that the reason for this lessening of influence was due to the fact that there was a difference of opinion between Hitler and his Generals?

A That was undoubtedly the case andthis was also shown in the time previous to the war.

Q No further questions.

CROSS EXAMINATION

BY DR. KEMPNER:

Q You were at the War Academy, were you not?

A Yes.

Q You have stated there that 40% was tactical questions concerning cases of aggression and 60% of the questions at the War Academy was the question of defense. Was that the case?

A I said that 40% of the tasks concerned itself with aggressive operations and 60% with defensive operations and this was in the scope of one division.

Q How many cases out of the 40% of the questions on aggression concerne cases relative to prepare warfare in the case of aggression against Russia?

A Not a single one for we only played on German maps.

Q You had classes of history at the War Academy?

A Yes.

Q In war history?

A Yes.

Q In the question of superior order?

A I believe that we were taught only two such cases and one treated with the American war of sedition and the other a military campaign in Valencia.

Q Were you taught anything about spperior orders if the superior orders were foolish or criminal?

A We only received orders concerned with tactics. The principal there is that the higher order would cancel a lesser order if necessary and no mention was made of violations or criminal orders.

Q Have you ever been taught in the War Academy that Prussian Generals opposed orders of armed sovereignty if such orders were foolish?

H0959-0108

A I only know of the case of General York.

Q Is that the only case that you know of?

A I believe there is a second case taken from the time of the Seven Years war when the Prussians refused to carry out an order.

Q Do you agree with such an occasion for Generals to oppose such foolish orders? I ask you about orders which are foolish from a tactical point of view -- orders which are military nonsense?

A One would have to endeavor not to carry out these orders, but it is not impossible for every single individual to carry them out if he was in the scope of a larger operation.

Q Have you ever read the pamphlet of Professor Schwinge, who was also a military judge about this topic.

A When was this pamphlet published?

Q In 1938.

A I don't remember.

Q Did Schwinge send you this?

A I don't believe so, otherwise I would know it.

Q Are you very proud that you were an officer of the General Staff?

A Yes.

Q May I ask you, did these members of the General Staff associate with each other frequently or not?

A Only those who knew each other personally.

Q Did you not have any kind of a fraternity or assembly of the former General staff officers?

A There was an organization that was composed of members of the former general staff of the Kaiser's army, the name of this organization was the Schlieffenvereinigung and this organization met once a year on the occasion of Schlieffenvereinigung's birthday. There was an annual meeting and a dinner. The younger staff officers became compulsory members of this organization. We paid three marks dues and took part in the dinner.

Q Did this organization issue a circular and some pamphlets?

A One annual printed report was issued once a year, but nothing of importance was in this pamphlet, some few accounts and listings and speeches made during the course of the last meeting were contained in it. It was not a

H0959-0109

real organization for one did not even know the order Generals personally.

Q I did not ask you about this. Have you been aware of the fact that of the German Army the General Staff were recruited as something better and more effective than all other officers?

A No, we were told that only the best officers in the army were able to become members of the General Staff.

Q Did Hitler hate the General Staff himself so much because you termed yourself as the elite? Was that the reason Hitler hated so much the Generals of the General Staff?

A No. I don't believe so and my reasons for this, which is of importance now, is he considered himself too critical and too careful. We did not keep up to his speed and had too many objectives.

Q Would you not have preferred latter methods, which were better to the military view than Hitler's ideas?

A You would have to draw a distinction between the time mentioned. We did not want a war and would have liked to have seen the war prevented. During the war we wanted to manage differently -- and in our opinion better.

Q Before the war, did you think that Hitler's methods of quick armament was pretty bad tactics?

A I did not quite understand the question.

Q May I repeat it in German?

CAPTAIN TUBRIDY: Yes, Doctor Kempner.

(DR. KEMPNER REPEATS THE QUESTION IN GERMAN)

BY DOCTOR KEMPNER:

Q Go ahead.

A I already testified here, we were against such a quick building up of the army for reasons of troops etc., also because the entire world would of course be put in arms against us for this method.

H0959-0110

Q Is it not true that you would have preferred a rearmament in a more secret way than without warning other powers as Hitler did?

A No, not a secret rearmament. In my opinion that is incapable of being carried out at this time. That would incite even more accusations.

Q Would you have preferred a rearmament that had upset less foreign powers than that ordered by Hitler?

A Yes, a slower method.

Q You said this morning that the German Army, the German Reichsfuehrer had only 4,000 officers. According to the figures of the German General staff they had more than 12,000 officers. What do you say about that 4,000 on paper and that 8,000 more in some other way. Don't you know this?

A I consider this impossible. In my opinion we only had 3,600 officers and 400 doctors and veterinarians.

Q Don't you know there were so called "black" or camouflage cadres?

A Such "black" cadres existed only in 1933 to the extent of (five) 5% strength before 1933. We had no reserve officers.

Q Before 1935?

A A number of officers were recommissioned between 1933 and 1935. I don't know the number in detail.

Q Do you know there were more than 10,000?

A I don't really think so.

Q What is your figure?

A I would say about 2,000 but I cannot say without uncertainty.

Q How many were camouflaged as police officers?

A They were not camouflaged as police officers. Many police offices were transferred to the army.

Q Don't you know that in 1935 all police regiments just got another cap and were army officers from one day to the other?

A Yes, my answer referred to the time between1933 and 1935 before the duration.

Q In 1935 they just appeared from the bottom. Do you know that: Answer if you know that?

A No, I wanted to say that a German origin took part beginning in 1933 and to a greater extent in 1935.

Q Do you know that the General Staff participated in preparing this?

H0959-0111

A Not in relation to the 36 division army, only in relation to a 21 division army.

Q The only difference between Hitler's Naziparty and the General Staff was that you wanted only 21 divisions and Hitler and the Nazi party wanted 36 divisions, is that correct?

A Yes, after an increase had been assured in Geneva.

Q You speak of Geneva, you know this increase had nothing to do with 21 divisions, do you not?

A No, I don't know that in detail as I was not concerned with these things at that time.

Q This morning you told this commission that some of the SS leaders told you literally that if the General Staff Officers behaved the way you did in the question of the hostages, that it would take care of the General Staff after the war. Is that correct?

A It was a little different. I said referring to our resistance concerning the evacuation of Rome. The answer given was, "We shall reckon or have our reckoning with the General Staff officers after the war."

Q Whom did they mean when they said that they would have their reckoning after the war? Whom did they mean when they said the words, "General Staff?"

A They meant what we mean when we refer to the General Staff in Germany - that is the General Staff officers - the assistants of the leadership group.

Q You were suspicious so far as the SD is concerned, were you not?

A No, at that time I only had my suspicions concerning the transfer of partisan combatants to the SS and SD.

Q Otherwise you had good contacts with the SD and SS, insofar as the army was concerned?

A You mean me personally?

Q No, not you personally - the General Staff Officers.

A I don't believe so, but I can only answer as far as I am concerned I only had brief contact with the SS in 1941 in the west and in Italy after the turn of the year after 1943 and 1944.

Q In war, you had good contact with this Kappler?

A My relations to Kappler were cooperative.

Q Were you suspicious against him? Did you think he did something wrong

H0959-0112

A No, I did not think this, but I had a bitter reticence as far as all these people in black were concerned, as I could not understand their necessity.

Q Do you believe these statements as they were reported to you about public opinion, etc.

A Yes, in general I did, for these reports gave us a very good basis. They contained nothing about which we could have an objection?

Q Then, it was a correct corps between two branches of theReich?

A Yes; the relation and cooperation was with the commander of the staff with the people without a partisan corps.

Q For the purpose of winning the war, is that correct?

A It had nothing to do with winning the war . . It was only a matter of the policemen and the soldiers.

Q Both, both branches worked for the betterment of the German Reich is that correct?

A I don3t believe that you can make a comparison between the General Staff and the SD.

Q Everyone did his part, of course?

A Not in my opinion, you can never compare a soldier to a policeman.

Q But, you relied on their statements?

A As far as partisan conditions were concerned, yes.

Q You relied also on the statements about the hostages in Rome?

A No hostages were taken.

Q I mean these people who were killed and so-called hostages.

A I consider the number mentioned to me by Kappler at that time, of the people who had been sentenced and convicted for numerous political offensives a high report.

Q So you were suspicious about statements in this case?

A Yes, I had my suspicions in this case, but I reported to Kesserling and with six months of examinations we found the number he mentioned was correct.

Q Was Kappler a superior to you?

A No, not a superior or a subordinate.

H0959-0113

Q Why did you accept his statement since he was such a police officer? You did not make any inquiries of your own?

A We did not apprehend the criminals and furthermore such an investigation would not have been the work of the army group of the 14th Army. The Commandant of Rome, the chief of this army group, did not want to carry out such an investigation.

Q Something else. You got this order in Africa about which we spoke - the order which you burned? Do you remember?

A Yes.

Q You burned this order for reasons of humanity more or less, is that correct as you stated?

A It was burned for the reasons that I mentioned, that is to prevent a tightening of the methods of war fare.

Q Don't you know that you received a straight order to burn this order?

A No, I don't remember that. We burned it of our own accord, so that it would not fall into the hands of the troops.

Q What troops - the enemy or your troops?

A Our own troops.

Q Don't you know? I quote you now from the order: "The Bureaus named in the distribution list are held responsible for the return and distribution of all distributed pieces of the order of propererty." This order is a letter received in October of 1942.

(THE WITNESS IS SHOWN THE DOCUMENT.)

A This is not the Fuehrer's order that we received. This order was received on the 19th and was signed by Jodl. We received an order dated the 18th and it was signed by Hitler. That is the order which we burned.

Q I have the order of the 18th, PS 498. This is the order to which you refer?

CAPTAIN TUBRIDY: Has this been put in evidence by the Prosecution?

DR. KEMPNER: USA 501 is PS 498 and USA 542 is PS 503.

BY DR. KEMPNER:

Q I read you now again Document PS 503: "And this order of October 19th refers to the order of October 18th and tells exactly that everything concerning these orders should be destroyed." Now,

H0959-0114

I ask you again did you destroy the order for reasons of humanity or because it was ordered, or for both reasons?

A I repeat and under oath that we destroyed this order on our own initiative.

Q For what reasons?

A For the reasons that I stated this morning.

Q That you were not afraid the military might get this order?

A No.

Q Thank you, that is all.

BY CAPTAIN TUBRIDY:

Q Was Specia under the army group command to which you were attached.

A Specia was under the army group command of Sunnen and the army of Sunnen was subordinate to us.

Q Then Specia was under the command to which you were attached at the time of this commandc raid.

A Yes, and always subordinate to the Italian army groups and several intermediate groups and the Zangen. Specia was under the command of the fortification brigade and this brigade was under the 75th corps and this was under our command.

Q Did any report arrive at your headquarters with regard to this matter of Specia?

A Not as far as I know.

Q You testified many excesses were reported from the area where the partisans operated.

A Yes, especially in this corps.

Q Cruelties by whom?

A By the partisans.

Q Was there retaliation by the German divisions in that area?

A Yes, one of the main occupations of the partisans was continually to attack and assault the German Divisions, but of course first of all they attacked individual soldiers and Germans.

Q Were there retaliations by the Wehrmacht?

A At the end of 1943 we issued an order that was effective for our whole area, according to which captured partisans were to be considered as

H0959-0115

Prisoners of War. This was issued a short time after we took command of the area north of the Rhide Alba.

Q Were these orders observed?

A I should believe so. I also know that the partisans who had been taken prisoner were sent to Germany for labor enforcement, but our time was so much taken up by the actions in Southern Italy that Kesselring went to Italy only once and I never went there at all.

Q You testified that German military authorities observed the customs of war?

A Yes, we endeavored to observe the customs.

Q But that violations did occur?

What actions were taken when the violations which occurred came to the attention of the Commander in Chief.

A The people who were guilty of having committed such an offense were tried before a martial court.

Q Do you know of any cases where this happened?

A I know of cases of looting and rape which were punished very severely.

Q You testified that the military leaders held their position not necessarily voluntarily, but that they could be commanded into those positions.

A Yes, they were ordered there.

Q Was it possible for them to resign from the position to which they were commanded and ask for some other assignment?

A Are you referring to the time before the war or during the war?

Q Both.

A I believe that before the war an officer could retire for reasons of health and advanced years, but during the war itself even the older officers were only released from their posts if Hitler wished it so. He also said that the soldier in the trench also could not leave this position, therefore the General also had to stay at his position.

Q You testified that the army did everything possible to make preparations for the feeding of the population in Italy?

A Yes.

Q Was food transported from Italy to the Reich?

H0959-0116

A I don't know anything about this because the lines of communication were not under our command. I know at least that food was sent from the Reich to Italy.

Q If you say you don't know about the supply lines going from Italy to the Reich, you are not particularly competent to testify as to the feeding of the Italians in Italy?

A I know this because we spent two or three hours every day on this question in order to transport food from Northern Italy to Central and Southern Italy.

Q You testified that there was not a great deal of control exercised by the Wehrmacht over these SS divisions.

A Only a very smallcontrol could be exercised.

Q Was the tank division implicated in the Malmedy occurrence an SS division?

A Yes, an SS division.

Q So that according to your own testimony and direction about investigating this affair would not be very successful.

A I believe yes. Model who was in command of the army group had a good relationship to the SS group, but there were no other possibilities open to us.

Q You testified in the campaign in the west there was no plundering because the discipline of the troops was strong?

A Very little plundering.

Q So that the provisions for the rules of correct warfare were closely observed?

H0959-0117

A Yes.

Q Now I take it that you mean to say, when you say the discipline of troops was strong in the West, there was very little violation of rules of warfare.

A In 1940, yes.

Q And when was the discipline of the troops weak?

A I was only stationed in Africa where the discipline was always good and then in Italy where the discipline became loose in the summer of 1944 and then in the winter of 1944 and 1945 the discipline became very weak but we were then on German territory.

Q When the discipline was weak were war crimes committed?

A No, I don't believe in that year our soldiers did anything in the year 1944 and 1945, they had become much too apathetic, and in connection with this, one must state that such crimes which usually happen at the very foremost front usually are not brought to the attention of the leaders.

(A recess was taken)

DR. LATERNSER: I would like to clear up this point, Mr. Commissioner. After the cross examination is finished the defense counsel should be allowed to talk to the defense witness in private or during the intermission that might occur.

CAPTAIN TUBRIDY: We will just continue as though we had no recess, Dr. Laternser.

DR. LATERNSER: I would like to have the question cleared up, for instance in a case like this when there was a short intermission.

CAPTAIN TUBRIDY: No, we will just continue as though there were no recess in between.

REDIRECT EXAMINATION

BY DR. LATERNSER:

Q Witness, you were asked about the so-called Schwartzen cadres, which at times was about five per cent of the SS actual strength. Were these Schwartzen cadres organized with the knowledge of the government?

H0959-0118

A I would like to emphasize that these Schwartzen cadres existed during 1923, that is, this five per cent, that is about 5,000 to every 100,000. Now that is during the time before Hitler, I at that time was a Lieutenant in the line and do not know whether the government had any knowledge of this but they had to pay for it.

Q Did you have any orders to keep these Schwartzen cadre orders secret?

A Officially these Schwartzen cadre orders were, of course, not to be made public, but I cannot remember any especially strong orders concerning them.

Q During cross examination we were also talking about the enlargement of the army from 7 divisions to 36 divisions while the general staff only wanted to enlarge it to 21 divisions. I want to ask you in this connection how strong at that time was the army of Czecho Slovakia?

A I would say about two and a half thousand.

Q And how many divisions?

A I only know that during the war there were 32 divisions and some cavalry brigades.

Q And how strong do you think the Polish army was at that time?

A About 40 divisions peace time strength.

Q I now have a few more questions concerning the relation with the SD. Did I understand you correctly if in answering my questions you said that in Italy there was no connection whatsoever between the SD on one hand and the army on the other?

A Yes, the SD officers in Italy were of a higher and superior rank to the SS leaders and these were under Himmler. They were not under us. We were only informed by the SD of the partisan situation and the strike situation, and so on, as I have explained previously.

Q Was it true that any officer who received the information concerning the partisan activities had to inform the army since through activities of the partisans the supply of the army was endangered?

A Yes, certainly.

Q Was that the only reason?

A I don't know of another one.

Q One further question concerning the control of the SS division. During Von Runstedt's offensive was the violation of army laws in army groups which were perpetrated at Malmedy, were these incidents when they were investigated, were they investigated by the army authorities or were they again investigated by members or commissions of the SS corps?

A The first reason for the investigation was to find out whether or not the Allied radio report was correct. The investigation had to be carried out through organizations of groups of the 6th SS armored division, because this 6th Army had, just like every other armored Division, and every SS Division in the Reich, its own court martial and its own law.

Q Could Field Marshal Von Runstedt had, if he wanted to, this incident investigated by army authorities?

A To have it investigated by army charges as you were thinking about, he would have had to have had the permission of Himmler and Hitler and this commission would certainly have been turned down with the reason that the SS charges were at least as well or as good as the army charges. That is why we used the name of Model, because he was in good relations with these men.

Q You were also asked concerning the Schleffenvereimgung organization, and I only have one question concerning this: Did this Schleffenvereimgung society have a very social character or did it on the other hand have as its main goal or one of its main goals a political, or even an aggressive nature?

A I say that it was purely a social group. We only met together once a year, and did not know the older men at all, and as far as I remember it actually only turned out once that a unified protest was made and that was concerning the death of General Von Sleicher.

Q One last question: Concerning the resignation of Generals during the war, concerning which you were asked previously, don't you know that Hitler gave out a written order forbidding the resignation of Generals?

H0959-0119

H0959-0120

A I believe he gave out two of these orders but I did not read them, the first one because I was not a general at that time, and the second one since I was sick at that time.

Q From whom did you hear concerning this written order?

A Colonel General Von Bredenhoff told me about it and General Rommel.

Q And what did he tell you concerning the contents of this written order?

A I don't remember that. They stated, about the thought of their statements were that their hands were tied because for an officer to retire or resign was their strongest weapon.

Q When was this order concerning retirement or resignation put out?

A As far as I am informed it was about the summer of 1944, the first order having been in 1941 or 1942, but I cannot say with certainty concerning that.

DR. LATERNSER: I have no further questions.

RUSSIAN COUNSEL:

Q Were you a party member?

A No.

CAPTAIN TUBRIDY: The witness will be excused.

The foregoing is a true and correct transcript of the testimony of Siegfried Westphal, taken on 18 June 1946.

ROSE W. COOK
Reporter

PIILANI A. AHUNA
Reporter

MABEL A. LESSER
Reporter

ALLICE MEEHAN
Reporter

CERTIFIED TO:

JOSEPH F. TUBRIDY
Commissioner